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Edition

BANGLADESH INCOME

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Theory & Practice

Bliss

Dr. Nikhil Chandra Shil
Mohammad Zakaria Masud
Mohammad Faridul Alam

Dedicated to Our Parents

ACKNOWLEDGMENTS

We wish to thank the many people who helped us during the writing, editing, and production of our textbook. First, on our list of acknowledgments are our families and friends. We thank them for their patience and understanding as we were writing this book. We also wish to thank those instructors who reviewed the earlier editions of our textbook, and provided many useful suggestions for improving the current edition.

Many of our colleagues and professional acquaintances were also extremely helpful. Each of those who have offered comments and suggestions has our thanks. All the feedbacks were enormously helpful in preparing the tenth edition of our textbook **Bangladesh Income Tax: Theory and Practice**. In this regard, we would like to express our deep sense of gratitude to them.

We would also like to express our deep sense of gratitude to the entire team of www.taxmatebd.com for their untiring effort to raise the tax awareness in Bangladesh.

BANGLADESH INCOME TAX

THEORY AND PRACTICE

[Amended up to the Finance Act, 2017]

ELEVENTH EDITION

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Bangladesh Income Tax – Theory and Practice

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PREFACE TO THE ELEVENTH EDITION

We are expressing our deep sense of gratitude to the almighty Allah for giving us the effort to complete the Eleventh Edition of the book "Bangladesh Income Tax: Theory and Practice". The acceptance of the earlier editions of the book among the readers throughout the country has encouraged us to present the thoroughly updated and revised eleventh edition of the book.

As in earlier editions, this edition of the book incorporates many special features to enhance the coverage of chapter materials and to help students understand chapter concepts: For example, each chapter begins with an outline and a list of learning objectives that emphasize the important subject matter of the chapter. Each chapter ends with a list of key points, and also includes sufficient multiple-choice questions, True/False identification, discussion questions and problems that will be helpful to both the instructors and students.

This edition of our book includes significant changes based on the Finance Act, 2017, Income tax circulars and relevant SROs. We have also considered the comments and suggestions of our valued readers. The book enumerates discussions along with illustrations regarding Income Tax, Value Added Tax, Gift Tax, Customs Duty, Travel Tax and Excise Duty; which we expect to be helpful for the students to the academic needs of their taxation courses and more to make them feel an academic thirst for excellence. In response to reviewer suggestions we have also included detailed baggage rules and narcotics duty in this edition.

Of course, any errors in this book remain our responsibility. We welcome your comments and suggestions for further improvement.

Dhaka: October, 2017

Dr. Nikhil Chandra Shil
Mohammad Zakaria Masud
Mohammad Faridul Alam

PREFACE TO THE FIRST EDITION

We are expressing our deep sense of gratitude to the almighty God for giving us the effort to complete the book "Bangladesh Income Tax: Theory and Practice". The literature on Income Tax is abundant, without any paucity. This book on *Bangladesh Income Tax: Theory and Practice* is an attempt to enrich the existing income tax literature in Bangladesh. The present book, covering the basic academic requirements of students of Commerce under BBA, MBA, BBS and also of various public and private Universities in Bangladesh and also to the students of ICMA and CA courses, is an earnest attempt to present the inner sense of the income tax law and practice in Bangladesh. In fact, we have presented the subject to make the readers aware that the law of Income Tax is unique and interpretation of it is an art by itself. We have endeavored our best to present a well-covered package of review questions to highlight the conceptual issues. This book is just to cater to the academic needs of their courses and more to make them feel an academic thirst for excellence. The key strengths of this book are the clear and readable discussions of various provisions of ITO, 1984 and the detailed demonstrations of these provisions through illustrations, explanations and relevant case references.

This text includes the thoughts and contributions of many individuals, and we wish to express our sincere appreciation to them. First, and foremost, we want to express our deep sense of gratitude to Mr. Swapan Kumar Bala, FCMA and Prof. Dr. Syed Masud Hossain, from whom we have learned the joy of educational process regarding taxation courses. We would also like to thank our students from whom we have been inspired a lot. In many respects, this text is an outcome of the learning experiences we have shared with our teachers and students.

Second, we wish to thank the many outstanding teachers and authors in taxation who have been serving the students and academicians for a number of years with their resourceful books and writings. Their creative works have contributed a lot in making this text a more effective learning tool. We especially wish to thank: M.A. Baree, FCA; Dr. Monjur Morshed Mahmud; Dr. Kanchan Kumar Purohit; Dr. Milan Kumar Bhattacharjee; Fazlul Haque, FCA; M. A. Akkas; Md. Waliullah; Md. Helal Uddin, FCA; Syed Anwarul Islam; S.M. Mahbubul Islam and Md. Mahbubur Rahman.

We also wish to thank Prof. Dr. Mohammed Sharif, Vice Chancellor, East West University; Prof. Dr. Md. Abdul Hye, Dean, Department of Business Administration, East West University; Prof. Mamtaz Uddin Ahmed, President, ICMAB; Prof. Md. Hafiz Uddin, Principal, Dhaka City College for their encouragement and valuable suggestions. We are indebted to our colleagues in East West University and former colleagues in Daffodil International University and Dhaka City College for helping us to reach our goal of writing the best possible Bangladesh Income Tax related text.

Above all, we extend our deepest appreciation to our friends and families who continue to provide the encouragement and support necessary for this textbook project. Despite our best effort to ensure the accuracy, some mistakes or errors may still remain in the book. If any, we shall try to minimize in our subsequent editions. All types of suggestions for the improvement of the book from teachers and students would be taken with humble courtesy.

Nikhil Chandra Shil
Mohammad Zakaria Masud
Mohammad Faridul Alam

Dhaka: October 2007

Bangladesh Income Tax

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CHAPTER – 1

INTRODUCTION

LEARNING OBJECTIVES

After studying Chapter 1, you shall be able to understand:

- the concept of public finance
- the concept of taxation
- classification of taxes
- characteristics of a good tax system
- role of taxes in economic development
- tax structure in Bangladesh

1.1 PUBLIC FINANCE

Public finance is a science that deals with the income and expenditure of public bodies and the government of a nation. The government of a country has to perform two types of functions namely obligatory functions (e.g. defense, maintenance of law and order situation etc.) and optional functions (e.g. providing various facilities to its citizens like infrastructure, health, environment etc.). To perform all these functions adequately and efficiently, government requires funds from the public which is the real beneficiary of the public expenditure. Government raises funds from the public in the form of taxes, fees, penalties, sale of goods and services and also by taking loans.

How and in what form the government should collect revenue and how it should spend it for the maximum benefit of the society is a matter to be decided by the government concerned taking the various political and economic considerations and the principles and theories of political science and economics into account. The science that deals with the income and expenditure of the government and the principles, problems and policies relating to these matters is known as public finance. A few definitions will support the view:

"Public finance is the study of the principles underlying the spending and raising of funds by public authorities." – Findlay Shirras

"Public finance is one of those subjects which lie on the border-line between economics and politics. It is concerned with the income and the expenditure of public authorities and with the adjustment of the one to the other." – Hugh Dalton

"Public finance deals with the provisions, custody and disbursement of resources needed for the conduct of public or governmental functions." – H. L. Lutz

There is hardly any fundamental difference in the central idea of the above definitions i.e., public finance relates to the income and expenditure of a government.

1.2 MEANING OF PUBLIC REVENUE

Governments need to perform various functions in the field of political, social & economic activities to maximize social and economic welfare. In order to perform these duties and functions government require large amount of resources. These resources are called Public Revenues. Public revenue deals with the question what are the sources of government revenue, i.e. how much amount government will earn from each earning source. Public revenue consists of taxes, revenue from administrative activities like fines, fees, gifts & grants.

1.3 SOURCES OF PUBLIC REVENUE

There are two major categories of public revenue – Tax revenue and Non tax revenue.

⇒ **Tax Revenue:** Taxes are the first and foremost sources of public revenue. Taxes are compulsory payments to government without expecting direct benefit or return by the tax payer. Taxes collected by Government are used to provide common benefits to all mostly in form of public welfare services. Taxes do not guarantee any direct benefit for person who pays the tax. It is not based on direct quid pro quo principle. Tax revenue is generated from taxes on income, profits and capital gains, taxes on goods and services which include value added tax (VAT) and excise duty and taxes on permission to use goods or to perform certain activities. This is the major source of public revenue. The government collects tax revenue by way of direct & indirect taxes. Direct taxes includes; Corporate tax; personal income tax capital gain tax, gift tax and wealth tax. Indirect taxes includes custom duty, excise duty, VAT and service tax etc.

⇒ **Non-Tax Revenue:** Non-tax revenue is the revenue obtained by the government from sources other than tax. The major sources of non-tax revenue are:

- a) **Fees:** Fees are another important source of revenue for the government. A fee is charged by public authorities for rendering a service to the citizens. Unlike tax, there is no compulsion involved in case of fees. The government provides certain services and charges certain fees for them. For example, fees are charged for issuing of passports, driving licenses, etc.
- b) **Fines or Penalties:** Fines or penalties are imposed as a form of punishment for breach of law or non fulfillment or certain conditions or for failure to observe some regulations. Like taxes, fines are compulsory payments without quid pro quo. But while taxes are generally imposed to collect revenue. Fines are imposed as a form of punishment or to prevent people from breaking the law. They are not expected to be a major source of revenue to the government.
- c) **Surplus from Public Enterprises:** The Government also gets revenue by way of surplus from public enterprises. In Bangladesh, the Government has set up several public sector enterprises to provide public goods and services. Some of the public sector enterprises do make a good amount of profits. The profits or dividends which the government gets can be utilized for public expenditure. There is some sort of quid-pro-quo in the case of surplus from public enterprises. This is because, the public gets goods and services, and the government gets prices, and consequently profits from selling such goods and services.
- d) **Special assessment of betterment levy:** It is a kind of special charge levied on certain members of the community who are beneficiaries of certain government activities or public projects. For example, due to a public park in a locality or due to the

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construction of a road, people in that locality may experience an appreciation in the value of their property or land. Thus, due to public expenditure, some people may experience 'unearned increments' in their asset holding. Betterment levy is like a tax imposed on a compulsory payment, but unlike a tax, in case of betterment levy there is no element of compulsion.

- a. **Grants and Gifts:** Gifts are Voluntary contributions by individuals or institutions to the government. Gifts are significant source of revenue during war and emergency. A grant from one government to another is an important source of revenue in the modern days. The government at the Centre provides grants to State governments and the State governments provide grants to the local government to carry out their functions. Grants from foreign countries are known as Foreign Aid. Developing countries receive military aid, food aid, technological aid, etc. from developed countries.
- b. **Budget Deficit:** Deficit means an excess of public expenditure over public revenue. Deficits may be met by borrowings from the market, from abroad, or by the central bank printing currency. In case of borrowing from abroad, there cannot be compulsion on the lenders, but in case of internal borrowings there may be compulsion. The government may force various individuals, firms and institutions to lend at a much lower rate than the market offered rate.

1.4 PUBLIC FINANCE VS. PRIVATE FINANCE

The basic principles of public finance and private finance are same. Individuals and States are similar in that both need resources. Both have to secure maximum results from their resources. Both attempt to get the best out of all items of expenditure. There are, however, some important points of difference between private and public finance. They are –

1. **Adjustment of Income to Expenditure.** An individual adjusts his expenditure to his income. He is advised to cut his coat according to his cloth. But a State first fixes the size of its expenditure - and then proceeds to raise the necessary revenues. Thus, it has to adjust income to expenditure. Expenditure is determined first and the revenues are then raised accordingly.
2. **Period of Time.** For an individual, there is no definite period over which the accounts must be balanced. State tries to balance its budget in the course of year.
3. **Private Finance is shrouded in Mystery.** No individual will permit his neighbor or friends to get any idea as to how he stands financially. But there is no such mystery in Government finance.
4. **In the case of an individual, there can be no internal borrowing;** it has always to be an external loan. But the government can borrow both internally from its own people and externally from foreign governments and from foreign people.
5. **An individual has to earn his income,** whereas the State gets most of its income from other peoples' income. No doubt sometimes the States also run productive enterprises and get income on their own account.
6. **The State can issue paper currency in order to meet its expenditure.** But no such course is open to a private individual.
7. **No Equi-marginalizing of utilities.** An individual tries to maximize satisfaction from his income by distributing his expenditure in such a manner as to have equi-marginal utility in every case. But State expenditure is done by the Finance Department in an objective manner, not by equi-marginalizing of utilities.

8. **Surplus budgeting** is a virtue for an individual but need not be so for the State. A sensible individual must use less than his income. He ought to have a superfluous financial plan. For an individual, this is considered a virtue. However for a nation it need not be so.

1.5 IMPORTANCE OF PUBLIC FINANCE

The role of public finance is very crucial for a modern government as every government ensures "Social Welfare" to its citizens and therefore, the scope of governmental activities has been increasing day by day. Modern government do not only confine themselves to law and order situation but they also actively intervene in economic matters to justify themselves as, 'Welfare States'. The governments require money to spend it on welfare of citizens. Hence, the importance of public finance has increased greatly in recent years. The importance of public finance can be justified on the following grounds

1. **Protection to infant industries:** The government of an underdeveloped country protects its infant industries against foreign competition through various public finance activities like imposition of heavy tariff duties on imports, putting restrictions on import, giving subsidies to keep the cost low etc.
2. **Planned Economic Development:** Public finance renders valuable help in the planned economic development of a country. The planning authorities fix the priorities of expenditure for the plan period and raise the necessary funds to implement the plans through various fiscal measures.
3. **Regulating Consumption Habits:** Public finance regulates the consumption habits of the people. It imposes tax on items of consumption, the use of which is to be discouraged such as wine, cigarettes etc. and allows concessions and rebates in taxes if it likes to encourage the consumption of any commodity.
4. **Reducing Inequalities:** Public finance also plays a vital role in reducing social inequalities, through its fiscal policies. The Government can levy heavy taxes on the richer sections of the society and spend the incomes so received on providing various facilities to poor sections of the society such as providing free medical facilities, education, cheap housing, cheap rations through fair price shops etc.
5. **Maintaining Balance of Trade:** The government always restricts the imports only to the essential items hence imports of non-essential items are taxed heavily and encourages the exports of its surplus production. It reduces the tax burden on export items and also supports them with subsidies and grants. These operations help the government to maintain the balance of trade.
6. **Industrial Development:** Public finance helps industrial development as –
 - (i) Government grants subsidies and grants to various industries these days to enable them to increase the production of different items.
 - (ii) Public finance induces the investment during the time of recession through its taxation policies by allowing rebates and other fiscal advantages for investments in desired direction.
 - (iii) The role of public finance in under-developed countries is to bring economic stability to keep the level of consumption and investment quite up to the level of production. It requires continuous trimming of the investment process to keep the productive process in the same speed.

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- (iv) To strengthen the economic development in developing countries, it is essential to give highest priority to capital formation. Therefore, there must be policies to encourage savings by cutting peoples' wasteful expenditure.
- (v) Industrial development of a country will bring in more employment opportunities to people especially in under-developed countries.
- (vi) Managing public money more effectively the government may ensure sufficient skilled manpower, infrastructure etc. for the businessmen which may generate positive growth in the economy.

Thus, it is evident that the government of a country can push up the industrial and economic development, provide more employment opportunities, encourage investments and savings, increase social benefits through public expenditure. However, it can also act as a check over infructuous economic and social activities, mitigate the inflationary and deflationary trends in the economy, regulates the consumption and production of commodities and can regulate the flow of imports to protect its own industries and so on, which affects the overall economic and social system of the country.

1.1 DEFINITION OF TAX

The term 'tax' has been derived from the French word 'taxe' and etymologically, the Latin word 'taxare' is related to the term 'tax', which means 'to charge'. Tax is a contribution exacted by the state. It is a non-penal but compulsory and unrequited transfer of resources from the private to the public sector, levied on the basis of predetermined criteria. According to Article 152(1) of the Constitution of Bangladesh, taxation includes the imposition of any tax, rate, duty or impost, whether general, local or special, and tax shall be construed accordingly. Taxes are the most important source of revenue of the modern governments. It is a compulsory levy, to be paid by the citizens who are liable to pay it, imposed by the government. Many economists like Seligman, Adam Smith, Bastable, Taussig and Dalton hold the unanimous opinion that tax is a compulsory payment to the government by taxpayer without any expectation of some specified return. But essence of the argument is this that the taxpayer, is not entitled to claim return of his taxes though he may receive benefits of the services which the State provides by means of the taxes collected from him and many other like him. The followings are the various definitions of tax given by different economists:

"'tax' means the income tax payable under the ordinance and includes any additional tax, excess profit tax, penalty, interest, fees or other charges leviable or payable under this ordinance" – Section 2(62) of the ITO 1984

"A tax is purely and simply a contribution, whether direct or masked which the public authorities impose upon the inhabitants or goods for the purpose of defraying government expenditure." – Leroy Beaulieu

"A tax is a compulsory contribution imposed by a public authority irrespective of the exact amount of service rendered to the tax payer in return and not imposed as penalty for any legal offense." – Dalton

"Taxes are compulsory payment to government without expectation of direct return in benefit to the tax payer." – P. E. Taylor

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The above definitions make it clear that taxes are compulsory contribution by the taxpayer to the government.

1.7 CHARACTERISTICS OF TAX

The characteristics of a tax may be studied under the following heads:

1. Tax is a payment to the Government by the people as it is levied by the government as per the Section 83 of the Constitution of Bangladesh.
2. Payment of taxes is non-penal and compulsory; hence refusal to pay a tax is a punishable offence.
3. An element of sacrifice is there in the payment of a tax as they pay the taxes in order to ensure public interest.
4. The aim of tax collection is to finance the government expenditure to ensure public interest and welfare.
5. Tax is not the cost of the benefit conferred by the government on the public. The benefit received from the country is not directly the return of tax.
6. It is one of the prime sources of revenue for the government.
7. Tax is not any fine or penalty.
8. Tax can only be imposed by the government of a country.

1.8 PURPOSES OR OBJECTIVES OF TAXATION

Taxation is a major source of revenue for the government. In order to accelerate economic development as well as to ensure the defense, administration, social welfare and other development activities government needs huge amount of resources. Taxation is a way to transfer the resources from private or non-government sectors to government sectors. The main purposes or objectives of tax are enumerated below:

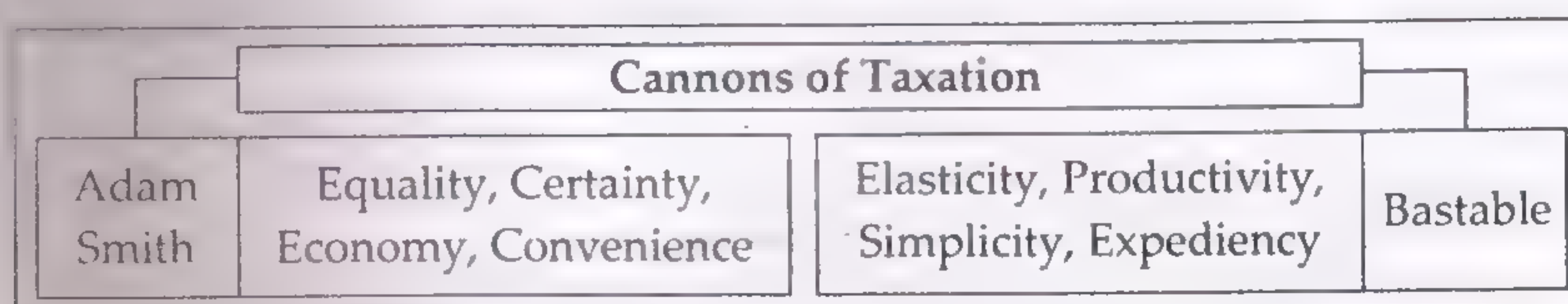
1. **Revenue collection:** Tax is a major source of revenue for the government. In Bangladesh tax revenue accounts for nearly 80 percent of the total government revenue. Therefore, the first and foremost aim of taxes is to raise public revenue to meet the over increasing public expenditure.
2. **Reduction of inequalities in income and wealth:** One of the main objectives of taxation is to reduce inequalities in income and wealth. This is possible by taxing rich people heavily and to confer benefit to the poorer section through progressive income tax, wealth tax, expenditure tax etc.
3. **Accelerating economic growth:** In order to ensure the economic growth, the tax system must be so designed as to raise the rates of savings and investments. This savings may be invested in productive sectors of the country.
4. **Control of consumption:** The government not only raises revenue through taxation but it also imposes restriction on the use of certain goods and services in a way desirable and respectable for a healthy state of the society. Taxes on intoxicant, tobacco etc. raise public revenue no less than other taxes but their main aim is to prevent the deterioration of health of general public. More tax is also levied on luxury goods to reduce their use.
5. **Protection of local industries:** In order to protect the local industries from the uneven competition government may provide tax incentives for poor local industries and so, should design the tax policy to ensure the protection of poor local industries.

6. **Economic development:** The tax revenue can be used by the government to ensure the economic development of the country. It can be used to build the infrastructure, to invest in social security programs, in various poverty elevation programs. Government can invest in productive sectors and can reduce unemployment.

So it can be said that the purpose of tax is not only the collection of revenue, but also to ensure the economic development and social welfare of the country. But it is only possible when the country designs the tax policy in an effective and efficient manner.

1.9 CANONS OF TAXATION

Canons of taxation refer to the administrative aspects of a tax. They relate to the rate, amount, method of levy and collection of a tax. In other words, the characteristics or qualities which a good tax should possess are generally described as canons of taxation. According to Adam Smith, there are four canons or maxims of taxation which are still recognized as classic and there are some other canons referred by other economists some of which are explained below:



1. **Canon of Equality:** The canon of equality implies that the burden of taxation must be distributed equally or equitably in relation to the ability of the tax payers. Equity or social justice demands that the rich people should bear a heavier burden of tax and the poor a lesser burden.
2. **Canon of Certainty:** The canon suggests that the tax which an individual has to pay, should be certain and not arbitrary. The tax payer should be well informed as to the time, amount and the method of the payment of tax.
3. **Canon of Economy:** Every tax ought to be so contributed as both to take out and to keep out of pockets of the people as little as possible, over and above what it brings into the public treasury of the State.
4. **Canon of Convenience:** Every tax ought to be levied at the time or in the manner in which it is most likely to be convenient for the contributor to pay it.
5. **Canon of Productivity / Adequacy:** The State should be able to function with the revenue raised from the people by means of taxes which should adequately cover the government expenditure and cannot be forced to resort to deficit financing.
6. **Canon of Simplicity:** This norm suggests that tax rates and tax systems ought to be simple, plain and intelligible to the common understanding.
7. **Canon of Elasticity:** The tax system should be flexible so that it is possible for the authority to revise the rates and system with the least in convenience in order to increase or decrease the revenue.
8. **Canon of Diversity:** A tax system should not be based on a single tax or only a few taxes. There should be a large variety of taxes so that all the citizens, who can afford to contribute to the State revenue, should be made to do so. There should be a wide admixture of direct and indirect taxes.
9. **Canon of Expediency:** A tax should be determined on the ground of economic, social and political expediency.

10. **Canon of Functional Efficiency:** A tax policy and system of a country should be effective and efficient so that it can generate sufficient revenue for the government in order to ensure the economic development of the country. The system should be able to reduce the harassment and tax avoidance.

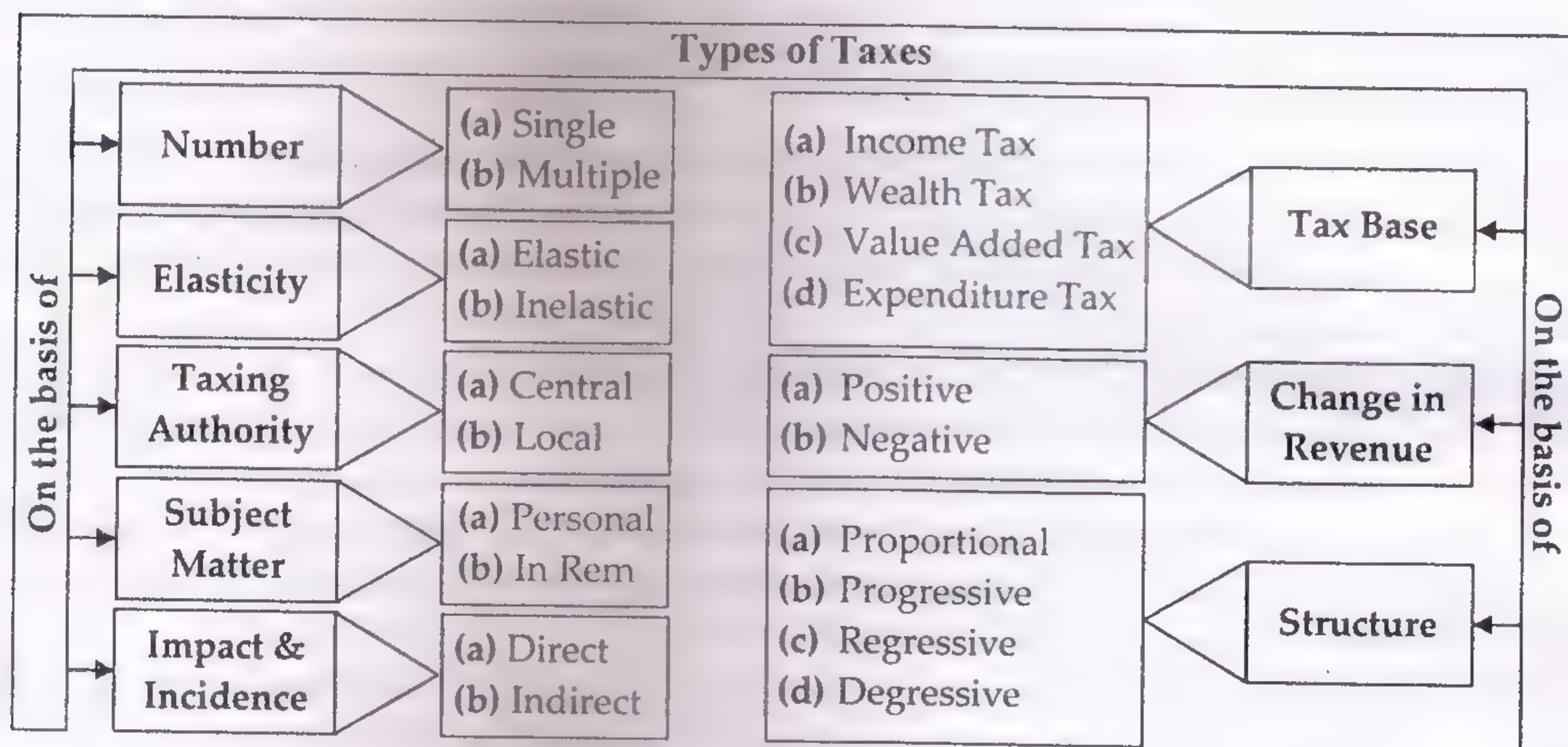
A tax system with the above canons will be able to generate sufficient revenue and fulfill the objectives and purposes of taxation.

SELF REVIEW 1 – 1

- (a) Define tax as per the Income Tax Ordinance, 1984.
 (b) State the canons of taxation as specified by Adam Smith.
-

1.10 CLASSIFICATION OF TAXES

Taxes have been differently classified by different economists in course of time. The classifications have been made on different bases, which are presented in the following figure followed by discussion:



A. Classification on the basis of number of taxes:

- i) **Single tax:** When the tax system of a country incorporates only one tax, it is called single tax. In ancient times tax was levied on person as poll tax or head tax.
- ii) **Multiple tax:** When the tax system comprises different types of taxes, it is called multiple tax. At present, all the countries in the world follow multiple tax system.

B. Classification on the basis of impact and incidence of tax:

- i) **Direct tax:** Direct taxes are those taxes which are paid entirely by those persons on whom they are imposed. The burden cannot be shifted to others in case of direct tax. Such as, income tax, land revenue tax etc.
- ii) **Indirect tax:** Indirect taxes are those taxes which are imposed on sales or purchase of any goods or services other than personal services. Here the burden is ultimately shifted to others. Such as, VAT, customs duty etc.

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Basis of Differences between Indirect and Direct taxes:

Basis	Indirect Tax	Direct Tax
Taxable Event	Purchase / Sale / Manufacture of goods and provision of services.	Taxable Income / Taxable Wealth of the Assessee.
Levy & Collection	Levied & collected from the consumer but paid / deposited to the govt. by the Assessee / Dealer.	Levied and collected from the Assessee.
Tax Burden	Tax burden is shifted to the subsequent /ultimate user.	Directly borne by the Assessee. Hence, cannot be shifted.
Collection	At the time of sale of purchases or rendering of services	After the income for a year is earned or valuation of assets is done on the valuation date.

Merits and Demerits of Direct and Indirect Taxes:

Tax	Merits	Demerits
DIRECT	<ol style="list-style-type: none"> 1. Equitable since they are progressive in their rates. 2. Economical as it requires low administrative collection cost 3. Elastic since they can be adjusted as per the needs of the State. 4. Certain as the rate, amount and time regarding tax collection is known to both tax payer and tax authority. 5. It is based on tax payers' ability that ensures distributive justice. 6. It creates civic consciousness among the taxpayers. 7. No scope for any leakage as it is directly paid to the treasury. 	<ol style="list-style-type: none"> 1. Large scale tax evasion by the dishonest taxpayers using loopholes of the tax system 2. Since the burden cannot be shifted, they are unpopular. 3. Direct taxes are found to be arbitrary to determine the degree of progression in taxation. 4. Since the taxpayers need to follow certain complex steps like filing returns, it is inconvenient. 5. Collection is not satisfactory if the system is not strong enough.
INDIRECT	<ol style="list-style-type: none"> 1. They are very convenient to pay since taxes are included in price. 2. They are generally difficult to be evaded as they are included in the price of the goods. 3. Highly revenue productive in a developing country since income level of the average people is low. 4. By taxing luxury goods heavily equitability can be ensured. 5. Can be used to control the consumption of luxury, liquor and harmful goods by imposing high taxes. 	<ol style="list-style-type: none"> 1. They are inequitable since same rates are applied for both poor and rich. 2. They are uneconomical since the collection of these taxes involves many stages and thus the cost of collection becomes greater. 3. Indirect taxes give chance for cheating as the retailers may charge the customers more than the specific amount. 4. It is a cause of inflation since it increases the cost of production

C. Classification on the basis of structure of tax rate:

- i) **Proportional Tax:** A proportional tax is one in which, whatever the size of income, the rates of taxation remains constant. Here the same percentage is charged on all taxpayers. For example, tax on Tk. 100,000 is 10% and Tk. 500,000 is also 10%. In the former case tax becomes Tk. 10,000 and in the later Tk. 50,000. Here in absolute form, tax has increased in proportion to rate of increase of income.

Merits:

- ❖ It is very easy and simple to calculate.
- ❖ It does not affect the existing pattern of distribution of income and wealth in the society as the tax rate is same for all.

Demerits:

- ❖ It is not based on the principle of equity. The burden of tax falls more heavily on the poorer section of the society.
- ❖ Under this system, principle of taxable capacity is totally ignored.
- ❖ Does not reduce the present inequalities of income and wealth in the society.

- ii) **Progressive Tax:** Under this system, the rate of taxation increases as the taxable income increases. The principle of a progressive tax is “higher the income, higher the rate”. It is considered more equitable. For example, tax on total income of Tk. 100,000 is 10% but on Tk. 500,000 is 15%. Here tax will increase more than proportionately.

Merits:

- ❖ Under this system, ‘income’ and ‘ability to pay’ are positively correlated.
- ❖ Moral as the richer section bears heavier burden of tax than the poorer section.
- ❖ It promotes equality in wealth and income distribution as ‘more income, more taxes’ is the principle of this tax system.
- ❖ The system is more flexible. During crisis. More taxes can be collected by adjusting the tax rates suitably.
- ❖ It is economical in the sense that with minor changes in the rates, substantial changes can be brought about in tax collection without incurring any extra cost.

Demerits:

- ❖ Arbitrary fixation of rates may be done in an indiscriminate manner when government needs more funds at a time of crisis.
- ❖ It adversely affects the propensity to save because the burden of tax falls more on those sections of society which can save because they have surplus.
- ❖ It dims the chances of more investments in productive sectors through reducing the savings.
- ❖ Tax evasion may be increased as it injects a feeling of tax evasion in the minds of those who are liable to pay tax at higher rates.
- ❖ Progressive tax system discourages the productive activities in the country because the producer is not interested to earn more. They also find it difficult to get funds at cheaper rates because the rates of savings go down.

- iii) **Regressive Tax:** A tax is regressive when its burden falls more heavily on the poor than the rich since the tax rate decreases as the tax base (income) increases. This is just the opposite of progressive tax. Sales tax is a regressive tax. If two individuals spend the same amount on a given product, they’ll both pay the same sales tax,

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regardless of whether one earns more than the other one. For another example, tax on an income of Tk. 100,000 is 15% but on Tk. 500,000 is 10%. Here tax will increase more than proportionately.

Merits

- ❖ Regressive taxes encourage savings and investment as high-income earners pay less tax and have more discretionary funds to use for investment and savings.
- ❖ Regressive taxes increase net government revenue. As people have more after-tax income to use for savings and investment, these additional investments in turn generate more taxable income and the cycle begins again - more investment, more wealth, and ultimately more tax revenues.
- ❖ Regressive tax systems encourage people to earn more income because the more you make, the more you get to keep. This incentive will produce more employment, savings, job growth, and national GDP.

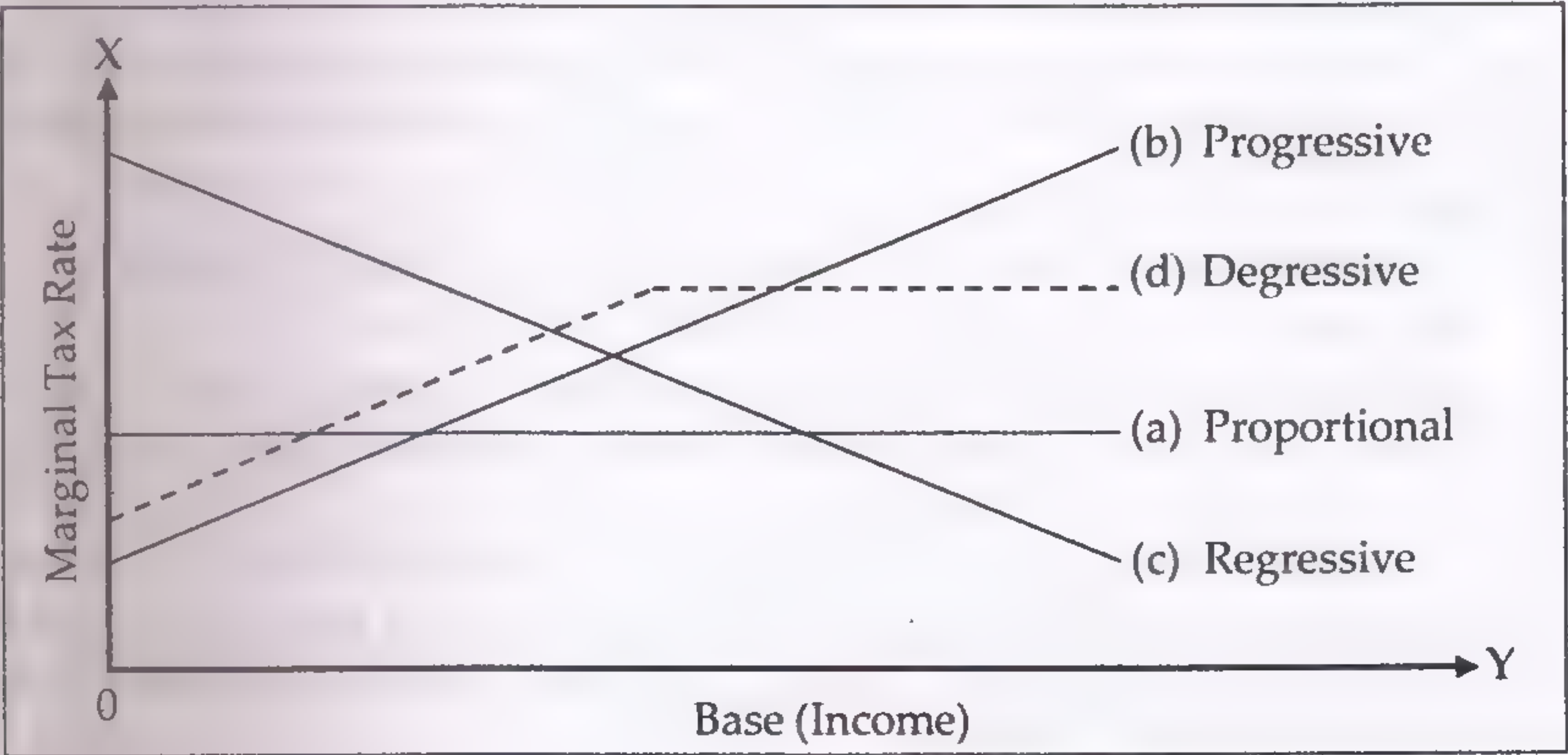
Demerits:

- ❖ It doesn't follow the ability to pay principle.
 - ❖ Under this system, principle of taxable capacity is totally ignored.
 - ❖ This system increases inequalities of income and wealth in the society.
- iii) Degressive tax: Taxes which are mildly progressive, hence not very steep so that high income do not make a due sacrifice, such taxes on the basis of equity are called degressive. In degressive taxation, a tax may be slowly progressive up to a certain limit, after that it may be charged at a flat rate. In Bangladesh, this system is followed. The tax rate for the assessment year 2017-18 is:

Total income slab		Tax rate
On first	Tk. 250,000	Nil
On next	Tk. 400,000	10%
On next	Tk. 500,000	15%
On next	Tk. 600,000	20%
On next	Tk. 30,00,000	25%
On next balance		30%

The *merits* and *demerits* of this tax system are similar to the progressive tax system.

These four categories of taxes are graphically presented below:



Above figure depicts the proportion of income taken away in taxation under different tax rates. Tax line a represents a progressive tax rate, tax line b represents a proportional tax rate, tax line c shows a regressive tax rate and tax line d denotes a digressive tax rate.

The proportional tax rate has a constant slope, graphically, while the progressive tax rate has a rising positive slope. The steeper the slope of the tax line, the progressive the tax regime. The regressive tax rate line has a declining negative slope. The steeper the negative slope of the tax line, the more regressive the taxation. The digressive tax rate line has a rising slope initially, but it becomes constant after a point.

D. Classification on the basis of subject matter of taxation:

- i) **Personal tax:** This tax is levied on the basis of the personal tax paying capability. Such as, income tax.
- ii) **In Rem tax:** This tax is levied on activities or objects like sales tax, wealth tax etc.

E. Classification on the basis of elasticity of tax:

- i) **Elastic tax:** If the rate of changes in tax is more than the rate of changes in the tax base, the tax is known as elastic tax.
- ii) **Inelastic tax:** If the rate of changes in tax is less than the rate of changes in the tax base, the tax is known as inelastic tax.

F. Classification on the basis of tax base:

- i) **Income tax:** It is a tax which is charged on the basis of the income of a person or entity. Such as, income tax.
- ii) **Wealth tax:** Here tax is charged on the basis of the value of the financial asset like shares, securities etc. or non financial asset like building, premises, land etc. Such as, wealth tax, gift tax etc.
- iii) **Value Added Tax:** Here tax is charged on the basis of the value addition in a commodity or service.
- iv) **Expenditure tax:** Here tax is charged on the basis of the expenditure like purchase tax, sales tax etc.

G. Classification according to change in government revenue: [Musgrave and Musgrave, 1989, pp 216 – 217]

- i) **Positive tax:** These are taxes which increase the revenue of the government. Such as, income tax, wealth tax, VAT etc.
- ii) **Negative tax:** These are taxes which don't increase the revenue of the government, rather decrease. These are basically transfer payments like pension, gratuity etc.

H. Classification according to taxing authority:

- i) **Central tax:** Tax levied by the central government is known as central tax. Such as, income tax, wealth tax etc.
- ii) **Local tax / Rates:** Tax levied by the local authorities like City Corporation, Municipality, Union Parishad etc. is known as local tax. This is also known as rates.

In the above classification twenty types of taxes have been explained. But all the above taxes are contemporary to each other. Other than negative tax all are positive taxes, other than single tax all are examples of multiple tax. Direct tax is mainly progressive, personal and elastic but indirect tax is regressive, in rem, inelastic or sometimes proportional.

1.11 CHARACTERISTICS OF A GOOD TAX SYSTEM

Tax plays a very important role in the economic development of a country. As a major source of government revenue, tax ensures the availability of resources for the various development projects undertaken by the government. In order to be treated as a good tax system, it should be endowed with following characteristics:

1. Tax should be levied on the basis of fundamental principles of taxation like the principle of least sacrifice, cost and benefit and above all ability to pay.
2. The taxes should be so imposed that they are equitable, convenient to pay, economical, certain, productive and elastic i.e. they should follow the most important canons.
3. The system should be balanced containing both direct and indirect nature of taxes so that it can maximize government revenue.
4. The tax authority should be supported by sufficient simple laws and rules, skilled manpower and efficient administrative tools and techniques.
5. Tax system should have positive effect on both production and distribution without causing any adverse effect upon ability and willingness to work, save and invest.
6. The tax system should be so framed as to ensure that the productive resources of the economy are optimally allocated and utilized. For this purpose, it is essential that the tax system should be economically neutral.
7. A good tax system has least collection cost to collect maximum amount of taxes.
8. The tax system of a country must be so devised as to leave no scope for the evasion of tax by the tax payer.

In short, the tax system should conform to the principle of maximum social advantage so that the society as a whole is benefited to the maximum effect possible. Maximizing social advantage or least aggregate sacrifice is not the task of one tax, but it is from the combination of all the taxes.

1.12 ROLE OF TAX IN THE ECONOMIC DEVELOPMENT OF A COUNTRY

The classical economists were in view that the only objective of taxation was to raise government revenue. But with the changes in circumstances and ideologies, the aim of taxes has also been changed. These days apart from the object of raising the public revenue, taxes are levied to affect consumption, production and distribution with a view to ensuring the social welfare through the economic development of a country. For economic development of a country, tax can be used as an important tool in the following manner:

1. **Optimum allocation of available resources:** Tax is the most important source of public revenue. The imposition of tax leads to diversion of resources from the taxed to the non-taxed sector. This revenue is allocated on various productive sectors in the country with a view to increasing the overall growth of the country. Tax revenue may be used to encourage development activities in the less developed areas of the country where normal investors are not willing to invest.
2. **Raising government revenue:** In modern times, the aim of public finance is not merely to raise sufficient financial resources for meeting administrative expenses, for maintenance of law and order and to protect the country from foreign aggression. Now the main object is to ensure the social welfare. The increase in the collection of tax increases the government revenue. It is safer for the government to avoid borrowings by increasing tax revenue.

3. **Encouraging savings and investment:** Since developing countries like Bangladesh has a mixed economy, care has also to be taken to promote capital formation and investment both in the private and public sectors. Taxation policy is to be directed to raising the ratio of savings to national income.
4. **Reduction of inequalities in Income and wealth:** Through reducing inequalities in income and wealth by using an efficient tax system, government can encourage people to save and invest in productive sectors.
5. **Accelerating Economic growth:** Tax policy may be used to handle critical economic situations like depression and inflation. In depression, tax policy is set to increase the consumption and reduce the savings to increase the aggregate demand and vice versa. Thus it may be used to strengthen incentives to savings and investment.
6. **Price stability:** In under-developed countries, there is another role to maintain price stability to ensure growth with stability.
7. **Control mechanism:** Tax policy is also used as a control mechanism to check inflation, consumption of liquor and luxury goods and to protect the local poor industries from the uneven competition. Taxation is the only effective weapon by which private consumption can be curbed and thus resources transferred to the State. Thus, the economy can ensure sustainable development.

Thus, it can be said that the economic development of a country mainly depends on the presence of an effective and efficient taxation policy.

SELF REVIEW 1 – 2

(a) Define Progressive Tax.

(b) Identify three features of a good tax system.

1.13 IMPACT, INCIDENCE AND EFFECT OF A TAX

Taxes impose a burden on the taxpayer because he sacrifices something. This burden does not always lie on the shoulders of a person from whom it is collected. In many cases, the burden is shifted to some other person who ultimately pays the tax. In the study of taxation, it is necessary to know who bears the ultimate burden of tax. This classification of burdens led to the conceptions of impact, shifting and incidence of taxes. These three concepts are:

1.13.1 Tax Impact: The impact of tax is the immediate money burden i.e. where tax falls on the person who pays the tax in the first instance (i.e., who has legal responsibility to pay). The impact of a tax is on the person on whom the tax is imposed. The man, who pays the tax to the government, bears its impact. For example, an income tax is levied on the net income / profit of a company who is legally bound to pay it to the government.

1.13.2 Tax Incidence: On the other hand, incidence of tax means the final money burden of a tax i.e. ultimate resting point of tax (i.e., who ultimately pay it whether it may or may not be levied on him). The incidence of tax is on the person who cannot shift it to anybody else. For example, the incidence of customs duty / value added tax is on the consumer as he will ultimately pay tax with the acquisition price.

1.13.3 Effect of a Tax: When a tax is imposed and collected, it involves certain responses from taxpayers and the economy. Such responses can be of great variety and can

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profoundly influence the working of the economy in terms of production, growth, savings, investment, choice of techniques of production, regional imbalances, inequalities of income and wealth, and so on. These responses and their results are collectively called the *effects of that tax*. These effects can be the result of the fact of tax imposition itself and they could also follow from the process of shifting its incidence. Effects of a tax can be both beneficial and harmful. Harmful effects of a tax will be referred to as the *burden of that tax*.

1.13.4 Burden of a Tax

- ❖ **Money burden/formal incidence:** It is the reduction in the disposable income of the taxpayers. This can be of two types:
 - ⊕ **Direct money burden** – amount of tax being paid by the taxpayers to the tax authorities.
 - ⊕ **Indirect money burden** – additional money expenses incurred by the taxpayers for tax payment
- ❖ **Real Burden:** It is the loss of welfare to the taxpayers and the community as a whole, in terms of increasing unemployment, reduced production, etc. This can be of two types:
 - ⊕ **Direct real burden** – sacrifice of the welfare which the tax itself imposes upon the taxpayers, but not as net of the benefits, if any
 - ⊕ **Indirect money burden** – indirect loss of welfare which results from interference with consumer choice, changes in factor supply and hence total output, and changes in employment through changes in aggregate demand

1.13.5 Distinction between Impact and Incidence of Tax: A distinction can be made between the impact and incidence of a tax on the following grounds-

1. Impact refers to the initial burden of a tax whereas incidence refers to the ultimate burden of tax.
2. Impact of tax falls on the person who initially bears it and pays to the government while the incidence of tax falls on the person who ultimately bears it and who cannot pass it on to some other person.
3. The incidence of tax cannot be shifted whereas the impact of tax can be shifted.

Generally, the impact and the incidence of a direct tax are on the same person because it is ultimately paid by a person on whom it is initially levied whereas the impact and incidence of an indirect tax are on different persons because it can be easily shifted to some other person who ultimately pays it.

1.13.6 Distinction between Incidence of Tax and Effect of a Tax: A distinction can be made between the incidence and effect of a tax on the following grounds-

1. A tax reduces the income of the person on whom the incidence rests, while the effect of the tax is the pressure or influence of the incidence (such as forced reduction of consumption and investment for disposable income reduced by tax incidence).
2. Tax incidence is direct money burden and tax effect is the indirect money burden.
3. The effects of a tax can be the result of the fact of tax imposition itself (impact) and they could also follow from the process of shifting its incidence.

1.13.7 Tax Shifting: Last but not the least, the process of transferring the direct money burden of a tax to another person is known as the shifting of tax i.e. if incidence differs from impact, tax is said to have been shifted. In the above example, the customs duty /

value added tax paid by the manufacturer, may be added to its cost and the price of the product will be increased by the amount of tax and thereby shifts the burden to the consumer. This process of passing on the burden is called shifting of a tax. Shifting of tax incidence is done through the means of a price variation. Tax shifting may be-

- (a) **Single point shifting vs. multi-point shifting** – When a trader shifts his tax burden direct to the consumer, it is known as single point shifting because a consumer cannot shift his tax burden. On the other hand, when the tax burden is shifted to the consumer through different points, it is known as multi-point shifting. For example, the VAT on a commodity is multiple points shifting because it is levied and first paid by the importer but, later on, the importer shifts the burden on to the wholesalers, who in turn shifts it on to retailers and retailers finally to consumer.
- (b) **Forward vs. Backward Shifting** – If a tax incidence is shifted through a sales transaction, it is called **forward shifting**. For example, an excise duty imposed on a producer may be shifted to a consumer, or a value added tax (VAT) imposed on a seller may be shifted to a buyer. In case of multi-stage forward shifting of tax incidence, a tax incidence shifted from a seller to an intermediate purchaser who will also shift it to another buyer and so on until the tax finally settles on the ultimate purchaser or consumer, it may be called that the tax is being shifted onward. On the other hand, if a tax incidence is shifted through a purchase transaction, it is called **backward shifting**. If a VAT imposed on a consumer and he can shift it to the producer, or a VAT imposed on a buyer and he can shift it to the seller, then it will be backward shifting. Backward shifting may be through **tax capitalization**, when a tax affects the capital value of assets. If a tax changes the expected yield of an asset, then it will also change its market price. In other words, the tax has been capitalized. Say, a durable good is subject to a periodic tax (e.g., equivalent to previous annual license fee on TV) and an equivalent of the future tax payments is found in terms of the present value (PV) of the periodic tax discounted on the basis of interest rate. If the purchase price of the durable item is reduced by a part or full amount of this PV by the purchaser, then it is called tax capitalization.

1.13.8 Theories of Tax Shifting:

- ❖ **Concentration Theory:** This approach maintains that there is an inherent tendency for the taxes to be absorbed by certain income classes (e.g., tax on wage or tax on land income only).
- ❖ **Diffusion Theory:** This theory asserted that all taxes are diffused among the members of a community. Because of the constant interaction of sales/purchase transactions, eventually it becomes impossible to trace the final incidence of any tax and in reality all taxes get “diffused” in the economic system.
- ❖ **Demand and Supply Theory:** According to this theory, a tax can be shifted only through a shift in the demand and/or supply curves and the sharing of the incidence will be determined by the demand and supply elasticity.

1.13.9 Demand and Supply Theory of Tax Shifting: Important conditions which influence and modify the principles of tax shifting which have just been considered are the elasticity of supply and demand. A supply may be said to be elastic when a small change in price would cause a perceptible change in the amount of goods produced. If a large part of a supply of goods were produced at practically a uniform cost, and this were near the selling

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price, it would be impossible for producers to bear an appreciable tax burden without greatly curtailing the amount of goods produced. If the tax could not be successfully shifted under such conditions, the amount of goods produced would be materially lessened. If there were a substantial margin between cost and selling price, however, the tax might be borne by the producer, for this would create a condition of inelastic supply.

- ❖ **Elasticity of Demand** – Of no less importance is the elasticity of demand. The condition of elastic demand exists when a small change in price will cause a perceptible change in demand. The greater the degree of elasticity the more difficult it is to shift a tax. The addition of even a small tax to the current price, when the demand is very elastic, will cause a perceptible falling off in the demand for the product. Some consumers may find substitutes, while others may forgo the use of the particular utility. The less the degree of elasticity in demand, however, the easier a tax may be shifted to the consumer. If the product be a necessity for which there is no substitute, then a tax, to almost any extent, might be added to the price, and the consumer would bear it. Effect of such shifting, however, may not stop here. The consumer, because of the high prices, may materially lessen his consumption of other goods. This decreased demand will cause a lowering in their price. Burden of such tax then is noticed in other lines of production, for these producers must either curtail production or accept a lower price for their product.
- ❖ **Direction of Shifting** – The relative elasticity of supply and demand has an important influence in determining the direction which the shifting of a tax may take. So far the suggestion has been that taxes are shifted only toward the consumer. This is necessarily true only when the tax is levied upon the first stage of a productive process, and not when it is levied on any of the intermediate stages. Suppose the processes in production are manufacturer, wholesaler, jobber, and retailer, and that a tax is placed upon the wholesaler. He wishes to shift this, and may do it by raising his price to the jobber, who will recoup himself by exacting more from the retailer, who in turn will increase the price to the consumer. He may shift the tax, on the other hand, back to the manufacturer, in refusing to pay as high a price as previously for the product. He would pursue the first course if the manufacturer were already selling at near the cost of production while the demand for the product was comparatively inelastic. If there were a wide margin between the manufacturer's cost and his selling price, while the demand was elastic, he would pursue the second course. When a tax is levied on some intermediate stage of production, then, its shifting will likely take the direction of greatest inelasticity.

1.13.10 Factors Influencing Tax Shifting:

As we have already discussed in the Demand and Supply theory of Tax Shifting, the following two factors are mainly behind any kind of shifting in tax:

⇒ Elasticity of supply ⇒ Elasticity of demand

Additional Factors Influencing Tax Shifting:

- ❖ Type of tax – transaction tax easier to shift.
- ❖ Price being fixed and accepted as normal – difficult to shift through price variation.
- ❖ Tax rate – small tax chosen to be borne by the seller in a competitive situation.
- ❖ Tax on commodity having close and effective substitute – difficult to shift.

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- ❖ Geographical coverage of a tax – if tax is not imposed in neighboring areas, it is difficult to shift the tax.

1.13.11 General Effects of Taxation: Effects of Taxation are the changes in the economy resulting from the imposition of a tax system (or a variation in it). Usual working of tax measures in a market economy:

1. All tax measures would work through either influence on the demand and the supply forces in the market.
2. The tax measures either reduce the disposable income of the buyers (individuals, firms and so on) and thereby affect their demand, or they have an important bearing upon the economy through supply efforts of taxation. Elasticity of supply (e^s) and elasticity of demand (e^d) are the major determinants in the detailed results of taxation.
3. On account of the shifting of incidence, both demand and supply reactions may get mixed up leading to further rounds of effects, which is called “announcement effects”

Economists have devoted considerable effort to studying the effects of taxes. In particular, they study how taxes affect people’s behavior, including their choices in working, saving, and investing.

Effect on	Effects of Direct Tax	Effects of Indirect Tax
Income	Higher direct taxes <u>reduce</u> disposable income by curtailing the income directly. In the countries where unemployment allowances are provided, the situation becomes worse when an unemployed gets employment but falls in the lower income-bracket, because then he will not receive the unemployment benefit and at the same time he has to pay tax. This is called ‘unemployment trap’.	Usually the imposition of an indirect tax <u>increases</u> the price of the concerned goods or services. Thus the purchaser has to pay <u>more</u> , which <u>reduces</u> the net income.
Savings and Investment	Higher direct taxes reduce the ability of the tax-paying individuals or enterprises to save or invest. But it depends on the extent of financing the enhanced tax from savings or consumption.	Usually it is said that higher indirect tax indirectly encourages savings, because it increases price and thereby reduces demand. But in the overall effect, higher indirect taxation decreases savings and investments.
Price	Higher direct taxes have a deflationary effect on price by decreasing the demand. But labor organizations may create pressure to increase the wage level to meet	Indirect taxation usually increases price level and it has an inflationary effect. But the extent of inflationary effect depends on the price elasticity of demand and

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Effect on	Effects of Direct Tax	Effects of Indirect Tax
	the higher taxes, which may cause a cost-push inflationary effect.	supply. If the price elasticity of supply is more than the price elasticity of demand, then the price will rise and if the price elasticity of demand is higher, then the price will fall.
Initiative	Higher direct taxes have a negative effect on initiative, because then the business will be more preferable to invest. But due to higher direct tax business might do more works to maintain the standard of living.	Higher indirect tax has also a negative effect on the business community's initiative, because it is seen as an impediment to their trade and commerce causing a price barrier.
Aggregate Demand	Other things remaining the same, as a result of higher taxation, aggregate demand of the economy will fall, which may cause an inflationary effect on the price and output levels. Balance of payments may be improved by decreasing the dependency on foreign aid. But the employment situation may be worsen due to the fall in aggregate demand. Besides, taxation may affect regional disparity, inequality between income and wealth, etc.	

1.14 BUSINESS TAXATION – AN INTRODUCTION

A business enterprise is considered as the activity of providing goods and services involving financial and commercial and industrial aspects. They have a separate economic entity i.e. the business and the owner is separate from each other. As a separate entity they are also eligible to pay tax.

1.14.1 Types of Business Enterprises: Considering the ownership status, a business enterprise is classified into following three categories:

- Sole-proprietorship:** is a business structure owned by an individual who has full control/authority of its own and owns all the assets, personally owes answers all liabilities or suffers all losses but enjoys all the profits to the exclusion of others. Having such an ownership structure, the owner pays no taxes other than the income tax. There is no definite legal procedure for sole-tradership to be complied with.
- Partnership:** is a form of business organization created through voluntary agreements of minimum 2 and maximum 20 persons (the maximum is 10 for banking business), with the intention of making and sharing profits among themselves. A partnership can arise only as a result of an agreement or contract, expressed or implied, between the partners. In Bangladesh, a partnership firm is to be formed under the provisions of the Partnership Act 1932. The Partnership Act 1932 does not require a partnership deed or agreement to be registered (or registration is optional). But if registered, a partnership firm can enjoy some legal rights and facilities.
- Company:** According to S2(20) of the ITO, 1984, "Company" means a company as defined in the Companies Act, 1913 (VII of 1913) or the Companies Act, 1994 (VIII of 1994), and includes:

- (a) a body corporate established or constituted by or under any law for the time being in force;
- (b) any nationalized banking or other financial institution, insurance body and industrial or business enterprise;
- (bb) an association or combination of persons, called by whatever name, if any of such persons is a company as defined in the Companies Act, 1913 (VII of 1913) or the Companies Act, 1994 (VIII of 1994);
- (bbb) any association or body incorporated by or under the laws of a country outside Bangladesh; and;
- (c) any foreign association or body, not incorporated by or under any law, which the Board may, by general or special order, declare to be a company for the purposes of this Ordinance;

1.14.2 Pass-Through vs. Non-Pass-Through Entities: We can divide the **tax treatment** of business entities into two categories: **pass-through** and **non-pass-through**. Pass-through entities do not pay taxes directly. Instead, their profits are allocated to the owners of the business. These profits are then included as income on the tax returns of the business owners to whom they were allocated. Examples of pass-through entities include sole proprietorships, master limited partnerships (MLP), limited liability partnerships (LLP). Non-pass-through entities, on the other hand, pay taxes on their profits directly at the corporate level income tax rate. Of course each type of entity has its nuances and peculiarities, most practitioners agree that pass-through treatment is generally preferable to non-pass-through treatment. Here's why. Non-pass-through entities are taxed on their profits at the entity level. They then pay dividends to their stockholders (owners). Those dividends are income, taxed to the individual stockholder on their income tax return. The effect of this is that **the profits of the business are taxed twice**: once to the business, and once to the owner. Pass-through entities, instead, are only taxed at the individual level, resulting in generally lower taxes.

1.14.3 Legal Taxpayer vs. Real taxpayer

Legal taxpayer is actually the person who is liable to pay tax as per the provisions of any laws applicable in a country. On the other hand real taxpayer is a person who actually pays tax liability. Generally in a society where tax evasion exists, the number of real taxpayer is significantly less than the number of total legal taxpayers.

1.15 TAX STRUCTURE IN BANGLADESH

The tax structure in the country consists of both direct (income tax, gift tax, land development tax, non-judicial stamp, registration, immovable property tax, etc) and indirect (customs duty, excise duty, motor vehicle tax, narcotics and liquor duty, VAT, SD, foreign travel tax, TT, electricity duty, advertisement tax, etc) taxes. Analysis of revenue collection activities in Bangladesh for the fiscal year 2016-17 reveals that tax revenue accounts for 86.67 percent of government revenue and direct taxes represent only about 36.72% of total taxes.

As per the National Budget 2017-18, the tax revenue target for the fiscal year 2017-18 has been set by the government to Tk. 2,568.12 billion which was Tk. 1,850.00 billion in the fiscal year 2016-17 as per the revised budget. From the analysis of the National Budget 2017-18, it can be seen that in the fiscal year 2017-18 revenue collections from income tax have been estimated at around Tk.

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858.76 billion (33.17% of total tax), value added tax (VAT) at Tk. 912.54 billion (35.53%), from import duty at Tk. 300.23 billion (11.69%), supplementary duty at Tk. 384.01 billion (14.95%) and 1.46% of this aggregate target. The salient features of Bangladesh tax system are as follows:

Multiple tax system: The tax system of Bangladesh consists of various types of taxes which are as follows:

A. Taxes on Income and Profit

1. Income tax – Company
2. Income tax – Other than Company

B. Taxes on Property & Capital Transfer

- | | |
|------------------------------|-----------------|
| 1. Estate Duty | 2. Gift Tax |
| 3. Narcotics Duty | 4. Land Revenue |
| 5. Stamp Duty – non judicial | 6. Registration |

C. Taxes on Goods and Services

1. Customs Duties
2. Excise Duties
3. Value Added Tax (VAT)
4. Supplementary Duty (on luxury items and in addition to VAT)
5. Taxes on Vehicles
6. Electricity Duty
7. Other Taxes and Duties (travel tax, turn over tax, etc.)

- ii) **Inadequate and stagnant revenue yield relative to GDP:** The ratio of tax revenue to GDP is very low comparing to other developing countries. In 1973-74 fiscal year, Tax GDP ratio was around 5% and even after 42 years the progress is not satisfactory. We can see the status of the ratio of tax revenue to GDP of Bangladesh in the following table for the last six years (*Source: Bangladesh Economic Review – 2017*):

Revenue as % of GDP	2011 – 12	2012 – 13	2013 – 14	2014 – 15	2015 – 16	2016 – 17
Total revenue	9.3	9.0	9.6	9.8	10.0	10.4
Tax Revenue	7.5	7.1	7.6	7.9	8.0	8.6
Non-tax Revenue	1.8	1.9	2.0	1.9	1.9	1.8

- iii) **High-ratio of indirect to direct tax revenue:** An analysis of the revenue from the existing taxes shows that the indirect taxes pre-dominate the revenue yield of the country. Nearly 61% of the tax revenue are from indirect taxes which is clear from the following table (*Source: Bangladesh Economic Review (BER) – 2017*):

Revenue (Tk. in Crore)	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Total revenue	1,14,885	1,39,670	1,56,671	1,63,371	1,77,400	2,42,752
Tax Revenue	96,285	116,824	1,30,178	1,40,677	1,55,400	2,10,402
Non-tax Revenue	18,600	22,846	26,493	22,964	22,000	32,350
% of Tax to Revenue	83.81%	83.64%	83.09%	86.11%	87.60	86.67
Direct Tax (DT)	31,011	38,695	48,321	52,920	55,746	77,268
% of DT to Total Tax	32.21%	33.12%	37.12%	37.62%	35.87%	36.72%
Indirect Tax (IT)	65,274	78,129	81,857	87,757	99,654	1,33,134
% of IT to total tax	67.79%	66.88%	62.88%	62.38%	64.13%	63.28%

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- iv) **Dominance of Indirect Taxes:** It has been seen that the dominance of indirect taxes (especially VAT, import duty and supplementary duty) in tax revenue of Bangladesh is quite significant for last couple of years. Moreover, the contribution of income tax has also been gradually increasing in recent years (See the following table: *Source: BER – 2017*):

Item wise collection	2012 – 13	2013 – 14	2014 – 15	2015 – 16	2016 – 17
VAT	34.6%	35.2%	35.2%	34.7%	34.6%
Import duty	12.4%	10.3%	10.7%	11.0%	10.7%
Income tax	30.2%	34.1%	34.6%	33.3%	34.2%
Supplementary duty	17.1%	14.7%	14.1%	16.1%	14.3%
Other taxes and duties	4.8%	5.0%	4.7%	4.2%	4.1%
Excise duty	0.9%	0.7%	0.7%	0.7%	2.1%

- v) **Tax administration in Bangladesh:** National Board of Revenue (NBR) is the central authority for tax administration in Bangladesh and collected almost 84 percent of total revenue for the country during the fiscal year 2016-17. Various reform measures have been taken and still in consideration to make the tax system of the country more effective and efficient.
- vi) **Tax avoidance behavior of the Taxpayers:** The heavy reliance on indirect taxation has been treated as one of the main obstacles in attaining economic progress in Bangladesh since only a few tax payers share the burden of taxes. Despite NBR's untiring effort, the progress is not still satisfactory. People and corporate firms use various measures to evade tax using loopholes of the current tax system. In a country of 161 million people, only 1.5 million individual and companies/organizations paid income tax in Bangladesh during the assessment year 2016-17, which is less than 1% of the total population.
- vii) **Narrow Tax base:** Our tax base is too narrow and the tax law is full of exemptions and allowances. Agricultural sector provides employment for around 60 percent of the population contributes only 16% of GDP and virtually pays little in the form of income tax. From a study it has been found that around black/shadow economy in Bangladesh consists of around 37% of GDP, from which there is no tax collection.

From the above discussion, it is clear that attaining an optimal tax structure is one of the most important issues for the government to increase the revenue generation from taxes for accelerating growth and to improve the quality of life of the citizens. A long-term sustainable solution to enhance transparency, promote growth, improve tax compliance and thus to increase tax to GDP ratio is a much desirable issue in the context of Bangladesh.

1.16 RANKING OF BANGLADESH IN EASE OF PAYING TAXES:

Paying Taxes 2017 is a unique study from PwC, World Bank and IFC. The study provides data on tax systems in 190 economies around the world, with an ability to monitor tax reform. It is unique because it generates a set of indicators (the Total Tax Rate, the time to comply and the number of payments) that measure the world's tax systems from the point of view of a standardized business (using a case-study scenario). Paying Taxes is also unique in that it covers the full range

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taxes paid in 189 economies by the company, measuring how the business complies with the different tax laws and regulations in each economy. The study not only looks at corporate income tax, but at all of the taxes and contributions that a domestic medium-size case study company must pay. It considers the full impact of all these taxes in terms of both their tax cost and their compliance burden on business. According to the study, the ranking of Bangladesh is 86 among 189 countries (2nd among the SAARC countries.) So, Bangladesh has a long way to go.

Economy	Overall Ranking	Number of Payments	Time to Comply (Hours)	Total Tax Rate (%)
Afghanistan	163	20	275	48.3
Bangladesh	151	33	435	34.4
Nepal	142	34	339	29.5
Pakistan	156	47	312	33.3
India	172	25	241	60.6
Maldives	134	30	406	30.2
Sri Lanka	158	47	179	55.2
Bhutan	19	18	85	35.3

Sources: *Paying Taxes 2017*, PWC

KEY POINTS

1. Taxes are compulsory payment to government without expectation of any direct benefit.
2. Taxation is a way to transfer the resources from private sectors to government sectors in order to accelerate economic and other development.
3. Tax should be levied on the basis of fundamental principles of taxation like Adam Smith's canon of taxation –
 - (a) Canon of Equality – based on ability to pay principal
 - (b) Canon of Economy – cost of collection should not override total collection
 - (c) Canon of Certainty – everything about tax should be definite
 - (d) Canon of Convenience – time and manner to pay tax should be convenient
4. The burden of tax cannot be shifted in direct tax but can be shifted in case of indirect tax.
5. In Bangladesh degressive tax system is followed.
6. For economic development of a country, tax can be used as an important tool by means of optimum allocation of available resources, raising government revenue, encouraging savings and investment, reduction of inequalities in income and wealth, accelerating economic growth, control mechanism etc.
7. The tax structure in Bangladesh consists of both direct and indirect taxes.
8. Tax revenue accounts for 87 percent of government revenue and direct taxes represent only about 37% of total taxes.
9. The tax-structure in Bangladesh is heavily depends on indirect taxes.
10. A long-term sustainable solution to enhance transparency, promote growth, improve tax compliance and thus to increase tax to GDP ratio is a much desirable issue in the context of Bangladesh.

Multiple choice questions:

1. “Taxes are compulsory payment to government without expectation of direct return in benefit to the tax payer” – this definition of taxation is given by –
 - (a) Dalton
 - (b) Leroy Beaulieu
 - (c) P. E. Taylor
 - (d) Adam Smith
2. Which of the following is not an objective of taxation –
 - (a) revenue collection
 - (b) reduction of inequalities in income and wealth
 - (c) accelerating economic growth
 - (d) none of the above
3. The tax payer should be well informed as to the time, amount and the method of the payment of tax as suggested by –
 - (a) Canon of Equality
 - (b) Canon of Certainty
 - (c) Canon of Economy
 - (d) Canon of Elasticity
4. Followings are the canon of taxation suggested by Adam Smith, except –
 - (a) Canon of Equality
 - (b) Canon of Certainty
 - (c) Canon of Economy
 - (d) Canon of Elasticity
5. ‘The tax system should be flexible so that it is possible for the authority to revise the rates and system with the least inconvenience in order to increase or decrease the revenue’ – this statement is the norm derived from the –
 - (a) Canon of Equality
 - (b) Canon of Certainty
 - (c) Canon of Economy
 - (d) Canon of Elasticity
6. When impact and incidence of tax lies on the same person, the tax is known as –
 - (a) direct tax
 - (b) indirect tax
 - (c) single tax
 - (d) multiple tax
7. Value Added Tax (VAT) is an example of –
 - (a) direct tax
 - (b) indirect tax
 - (c) progressive tax
 - (d) none of the above
8. Motor Vehicle Tax in Bangladesh is an example of –
 - (a) direct tax
 - (b) indirect tax
 - (c) regressive tax
 - (d) proportionate tax

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9. Tax on total income of Tk. 1,00,000.00 is 10% but on Tk. 5,00,000.00 is 15% - here the taxation is an example of –
 - (a) proportionate tax
 - (b) regressive tax
 - (c) progressive tax
 - (d) degressive tax
10. Income tax in Bangladesh is an example of –
 - (a) proportionate tax
 - (b) regressive tax
 - (c) progressive tax
 - (d) degressive tax

Identify the following statements as either true (T) or false (F):

1. Payment of taxes is non-penal and non compulsory
2. The aim of tax collection is to finance the government expenditure to ensure public interest
3. Burden of tax cannot be shifted in case of indirect tax
4. Direct tax has an adverse effect on taxpayer's willingness to work and save
5. Indirect taxation is a cause of inflation

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 1 – 1:** Define public finance. Explain the importance of public finance.
- Question 1 – 2:** Define taxes and identify some characteristics of taxes based on your definition.
- Question 1 – 3:** "Taxes are compulsory payment to government without expectation of direct return in benefit to the tax payer" – explain.
- Question 1 – 4:** "Taxation is a way to transfer the resources from private sectors to government sectors in order to accelerate economic and other development" – explain the statement in light of purposes of taxation.
- Question 1 – 5:** Classify taxes on the basis of impact and incidence and state the merits and demerits of direct tax and indirect tax.
- Question 1 – 6:** Explain the characteristics of a good tax system.
- Question 1 – 7:** Explain the role of tax in the economic development of Bangladesh.
- Question 1 – 8:** "Tax structure in Bangladesh requires modification" – do you agree? Explain.
- Question 1 – 9:** Write short note on:
- (a) Single tax
 - (b) Progressive tax
 - (c) Degressive tax
 - (d) Income tax
 - (e) Tax impact
 - (f) Tax incidence
 - (g) Tax shifting

Answers:

Multiple choice questions		True/False
1. c	6. a	1. F
2. d	7. b	2. T
3. b	8. b	3. F
4. d	9. c	4. T
5. d	10. d	5. T

Self review 1 – 1:

According to Income Tax Ordinance (ITO), 1984 ‘tax’ means the income tax payable under the ordinance and includes any additional tax, excess profit tax, penalty, interest, fees or other charges leviable or payable under this ordinance.

Adam Smith states following four canons of taxation:

1. Canon of Equality
2. Canon of Certainty
3. Canon of Economy
4. Canon of Convenience

Self review 1 – 2:

Under progressive tax system the rate of taxation increases as the taxable income increases. The principle of a progressive tax is “higher the income, higher the rate”. It is considered more equitable.

Features of a good tax system:

1. Tax should be levied on the basis of fundamental principles of taxation like the principle of least sacrifice, cost and benefit and above all ability to pay.
2. The taxes should be so imposed that they are equitable, convenient to pay, economical, certain, productive and elastic i.e. they should follow the most important canons.
3. Tax system should be balanced containing both direct and indirect nature of taxes so that it can maximize government revenue.

CHAPTER – 2

BANGLADESH INCOME TAX

LEARNING OBJECTIVES

After studying Chapter 2, you shall be able to understand:

- ✦ the concept and characteristics of income tax
- ✦ purposes and importance of income tax
- ✦ role of income tax in Bangladesh economy
- ✦ scope and features of Bangladesh Income Tax Law
- ✦ structure of Income Tax Ordinance, 1984
- ✦ evaluation of Bangladesh Income Tax Law
- ✦ some important concepts relating to income tax

Income tax is a direct tax, which enjoys a pride of place in the revenues of governments all over the world. In the fiscal scheme of our country, at present, income tax is levied along with other direct and indirect taxes like VAT, Excise duty, Gift tax etc. It is one of the most important sources of revenue for the government to ensure the equitable distribution of resources. The present law of income tax is contained in the Income Tax Ordinance, 1984 and the Income Tax Rules, 1984 as amended up –to-date.

2.1 DEFINITION

In order to generate revenue, government imposes tax on various areas. Of them, income tax is the tax which is levied on the taxable income of a person or entity as per the provisions of the Income Tax Ordinance, 1984. It is calculated and computed with reference to the total income of an assessee for a particular period (normally, on an annual basis). No specific definition of income tax has been given in the Income Tax Ordinance, 1984. But in Section 16 of the ITO, 1984, it has been said that *Income tax for any assessment year at any rate or rates shall be charged, levied, paid and collected in respect of the total income of the income year or income years of every person.* Some definitions of income tax given in the verdict of various cases are as following:

"Income tax is a tax on income and not on anything else. It is one tax not a collection of taxes essentially distinct." – [Bengal Coal Co. Ltd. vs. Janardan Kishore Lal Singh (Cal) 1936 I.T.R. 392]

"Income tax is a tax on income" – [Peter Merchant Ltd. vs. Stedeford; 30T.C. 496,509(CA)]

"Income tax is one tax and not a collection of taxes of different items of income and assessment to income tax is one whole and not a group of assessments of different items of income." – [CIT vs. Numberumal Chatty and Sons. (1933), I.T.R. 32 at 37 (Mad)]

"Income tax is an annual tax and the profits of each year should be subjected to income tax" – [CIT vs. Sri Sukhdeodas Jalan (Pat) 1954, 26, I.T.R. 617]

So from the above definition it is clear that income tax is a direct and single tax charged on the total income of a person for a relevant income year in relevant assessment year.

2.2 CHARACTERISTICS OF INCOME TAX

From the above analysis, we can depict the following characteristics of income tax:

1. It is a direct tax.
2. The levy of Income tax is regulated by the Income Tax Ordinance, 1984 [Act No. XXXVI of 1984].
3. It is charged on the total income of an income year of a person in an assessment year.
4. The rate of income tax is determined by the government in the National Assembly through the Finance Act. Besides rules/orders/circulars are issued by the National Board of Revenue from time to time.
5. It is one tax not a collection of taxes essentially distinct.
6. Income tax is levied by the government on an annual basis.
7. Tax imposed on items other than income is not income tax.

2.3 OBJECTIVES AND IMPORTANCE OF INCOME TAX

Taxation is one of the major sources of public revenue to meet a country's revenue and development expenditures with a view to accomplishing some economic and social objectives, such as redistribution of income, price stabilization and discouraging harmful consumption. Income tax is one of the most significant sources of public finance. Some major objectives and importance of income tax are as follows:

1. **Revenue collection:** Income tax is a major source of revenue for the government. In Bangladesh, as per the budget of the fiscal year 2017-18, income tax revenue target accounts for 85,176 crore taka which is 33.17 percent of total tax revenue. Therefore, the first and foremost aim of income tax is to raise public revenue to meet the over increasing public expenditure.
2. **Re-distribution of income:** An effective, efficient and fair tax system can reduce inequalities in income and wealth. This is possible by taxing rich people heavily and to confer benefit to the poorer section through progressive income tax.
3. **Increase in savings:** An effective and efficient tax system encourages people to save through providing tax credit facilities on investment allowance.
4. **Increase in capital investment:** An effective and efficient tax system encourages local and foreign investors to invest in the country through providing various facilities like tax credit facilities on investment allowance, tax holiday scheme, depreciation allowance, tax incentives etc.
5. **Economic development:** The income tax revenue can be used by the government to ensure the economic development of the country. It can be used to build the infrastructure, to invest in social security programs, in various poverty elevation programs.

So, from the above discussion it is clear that income tax plays a significant role in the economic development of a country. For this reason various reform strategies have been taken to modernize NBR.

SELF REVIEW 2 – 1

- (a) Define Income Tax.
 - (b) Identify three characteristics of Income Tax.
 - (c) Identify three objectives of Income Tax.
-

2.4 ROLE OF INCOME TAX IN ECONOMIC DEVELOPMENT OF BANGLADESH

As it has been discussed before, taxation is one of the major sources of public revenue to meet a country's revenue and development expenditures with a view to accomplishing some fundamental economic and social objectives, such as redistribution of income, price stabilization and discouraging harmful consumption. The contribution of income tax is playing a pivotal role in the economic development of Bangladesh. The government of Bangladesh has taken various measures to modernize the tax system and imposed various provisions in the Income Tax Ordinance, 1984. Some of the provisions are as following:

1. **Tax Holiday Scheme:** According to Section 45, 46, 46A, 46B, 46C, 47 and Para 44 & 45 of Sixth Schedule Part A of the ITO, 1984, an industrial enterprise established within prescribed time limit in the prescribed area shall be exempted from tax for certain period i.e. five to ten years. This is known as Tax Holiday Scheme. The main objective of this scheme is to ensure economic development through industrialization attracting investment in some specific sectors e.g. tourism industries.
2. **Investment allowance:** Investment allowance is given on the investment in new machineries (like machineries of new Fishing Boats & passenger boats) @ 20%, if they are established in NBR specified areas it is 25%. This provision is also attracting investors.
3. **Accelerated Depreciation Allowance:** Depreciation allowance is allowed on the new machineries used in various industries at a specified rate (100% in first year for specified areas, and 80% in first and 20% in the second year for industries established in other areas.)
4. **Tax incentives for Small & Cottage Industries:** According to Section 47(b)(ii) tax incentives are allowed on the income and profit of cottage industries to encourage investment which can contribute to the economy significantly.
5. **Tax incentives for encouraging savings:** The government also encourages savings providing tax credit facilities on certain types of investment and expenditures. Such as, investment in stock market, savings certificate, DPS, insurance premium, provident fund, government treasury bill etc.
6. **Tax exemptions in certain expenditures:** Certain expenditures to enhance social welfare like contribution to president's / prime minister's relief fund; Government Zakat fund, Ahsania Mission Cancer Hospital etc. are exempted from tax payment. These provisions also encourage people to spend in certain social development program.
7. **Tax incentives for foreign investors:** For attracting foreign investors various concessions like tax holiday, tax exemptions for interest, royalty, technical assistance and fees, remittance to own country have been allowed as per the ITO, 1984.
8. **Allowance for scientific research:** For developing new products, technologies in the industrial sectors certain allowance is allowed. Tax rebate is given on the cost of relevant scientific research.
9. **Tax incentives for remittance to Bangladesh:** A significant number of Bangladeshi people works abroad and to encourage them remittances through banking channel has been declared tax exempted.

It can be said that to ensure the economic development of the country certain provisions have been introduced in the ITO, 1984. These provisions encourage not only foreign investors but also the local entrepreneurs.

2.5 SCOPE OF BANGLADESH INCOME TAX LAW

In order to determine income tax on the income of an assessee in Bangladesh, certain provisions, rules and regulations have to be kept in mind. They are as follows:

1. **The Income Tax Ordinance, 1984:** The ITO, 1984 came into force on 1st July, 1984 as Income Tax Manual I. It has 23 Chapters, 187 sections, numerous sub-sections and seven schedules containing provisions regarding assessment, penalty, appeal etc. It also lays down the powers and duties of various income tax authorities.
2. **Income Tax Rules, 1984:** Every Act normally gives power to an authority, responsible for implementation of the Act, to make rules for carrying out purposes of the Act. Section 185 of the ITO, 1984 has given power to the National Board of Revenue to make such rules named Income Tax Rules, 1984.
3. **Finance Act:** Finance Minister presents this as Finance Bill in the Parliament. Once the Finance Bill is approved by the Parliament and gets the assent of the President, it becomes the Finance Act. It gives effect to the various proposals in the annual budget covering the areas of direct and indirect taxes. It contains various applicable tax rates and other amendments of the Income Tax Ordinance and Rules, 1984.
4. **SRO (Statutory Regulatory Orders)/ Circulars / Notifications from NBR:** According to the Section 185 of the Income Tax Ordinance, 1984, NBR can issue certain orders / circulars as and when necessary. The provisions of these SROs/circulars are also to be considered at the time of computing income tax like the provisions of Income Tax Ordinance and Rules.
5. **Judicial Decisions:** In the course of assessment proceedings, there may sometimes arise a dispute between the NBR and the assessee over the interpretation of some of the provisions of the act and rules. The assessee can go the court objecting the NBR's interpretation, and the judgments given by the courts act as guidance to the assessing officers and the assessee in similar circumstances in the future.

2.5.1 Income tax ordinance to override other laws [Section 184F]:

According to Section 184F of the ITO, 1984, Notwithstanding anything contained in any other law for the time being in force, the provisions of the Income Tax Ordinance, 1984 or any proceedings thereunder shall prevail over any other law in respect of tax on income and exemptions of tax thereof.

2.6 THE SCHEME OF INCOME TAX LAW: AN OVERVIEW

Every *person*, whose *total income* of the *income year* exceeds the *maximum amount* which is not chargeable to income tax, is an *assessee* and *chargeable* to income tax at the *rate* or *rates* prescribed in the *Finance Act* for the relevant *assessment year*. However his total income shall be determined on the basis of his *residential status in Bangladesh*. The determination of the tax liability of an assessee will be done on the basis of the relevant provisions under the prevailing updated income tax laws of Bangladesh. For the assessment year 2017 - 18, only those individuals whose income exceeds Tk. 250,000 [in case of women, elderly citizens who are above 65 years of age Tk. 300,000, for disable persons Tk. 400,000 and for gazetted wounded freedom fighters Tk. 425,000] will have to pay income tax. The special features of the Bangladesh income tax law may be enumerated below:

1. Income earned by every person is chargeable to income tax if it exceeds the maximum exemption limit.
2. The term "person" includes an individual, a firm, an association of persons, a hindu undivided family, a trust, a fund, local authority, a company, an entity and every other artificial judicial person.

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3. Income tax is charged on the total income of the income year but is taxable in the next following assessment year at the rates applicable to such assessment year. However, there are certain exceptions to this rule.
4. While assessing all these persons, their residential status is to be seen. Persons who are residents in Bangladesh are required to pay tax on their incomes earned, though received anywhere of the world, whereas persons who are non-residents would pay tax only in respect of incomes earned and received in Bangladesh.
5. Taxable income arises from many sources which are grouped under seven heads named salaries, interest on securities, income from house property, agricultural income, income from business or profession, capital gains and income from other sources. The Ordinance has various provisions to assess income under all these heads.
6. While assessing income under different heads, some losses of one head can be set-off against positive incomes under other heads, subject to some limitations prescribed in the ordinance. It has also provided a guideline to consider whether a particular receipt is income or not.
7. There are many provisions in the ordinance which enable an aggrieved assessee to go in appeal to the higher authorities or courts for justice. It has also imposed of interest, penalties and fines for the violation of any provisions under these act and rules. Wide powers have also been given to the taxing authority to deal with all types of situations.
8. Taxpayers can submit tax return under 'universal self-assessment' or 'normal' scheme. Tax rates and scope of taxable income differ on the basis of residential status of an assessee (resident or non-resident).

SELF REVIEW 2 – 2

Explain how government of Bangladesh has taken various measures to modernize the tax system

2.7 STRUCTURE OF INCOME TAX ORDINANCE, 1984

The Income Tax Ordinance, 1984 came into force on 1st July, 1984 as Income Tax Manual I. It has 23 Chapters, 187 sections, numerous sub-sections and seven schedules containing provisions regarding assessment, penalty, appeal etc. A brief description regarding these enumerated below:

The Income Tax Ordinance, 1984 – Chapters and Sections

Chapter	Sections	Title
1	1-2	Preliminary
2	3-10	Administration
3	11-15	Taxes Appellate Tribunal
4	16-19	Charge of Income Tax
5	20-43	Computation of Income
6	44-47	Exemption and Allowances
7	48-74	Payment of Tax before Assessment
8	75-80	Return and Statement
9	81-94	Assessment
10	95-103	Liability in Special Cases
11	104-107	Special Provisions relating to avoidance of tax
11A	107A – 107J	Transfer Pricing
12	108-110	Requirement of furnishing certain information
13	111	Registration of firms

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14	112-122	Powers of Income Tax Authorities
15	123-133	Imposition of Penalty
16	134-143	Recovery of Tax
17	144-145	Double Taxation Relief
18	146-152	Refunds
18B	152F – 152S	Alternative Dispute Resolution
19	153-162	Appeal and Reference
20	163	Protection and Information
21	164-171	Offences and Prosecution
22	172-184	Miscellaneous
23	185-187	Rules and Repeal

The Income Tax Ordinance, 1984 – Schedules

First Schedule:	Part – A	Approved Superannuation Fund
	Part – B	Recognized Provident Fund
Second Schedule:		Rates of income tax in certain special cases
Third Schedule:		Computation of Depreciation Allowance
Fourth Schedule:		Computation of the Profits and Gains of Insurance Business
Fifth Schedule:	Part – A	Computation of Profits and Gains from Exploration and production of petroleum and the determination of tax thereon.
	Part – B	Computation of Profits and Gains from Exploration and Extraction of Mineral deposits in Bangladesh (except oil and gas).
Sixth Schedule:	Part – A	Exclusions from total Income – Non-assessable income.
	Part – B	Exemptions and allowances – Tax credit income.
Seventh Schedule		Double Taxation Relief

The Income Tax Rules, 1984

The IT Rules, 1984, comprises sixty nine rules to supplement various sections and provisions of the IT Ordinance, 1984. National Board of Revenue (NBR) enjoys flexibility to amend or change any rules through the notification in the official gazette.

2.8 A BRIEF HISTORY OF INCOME TAX LAW IN BANGLADESH

Bangladesh inherited a system of taxation from its past British and Pakistani rulers. The system, however, developed on the basis of generally accepted canons and there had been efforts towards rationalizing the tax administration for optimizing revenue collection, reducing tax evasion and preventing revenue leakage through system loss. In the Indian Subcontinent, first Income Tax Act has been introduced in 1860 by the then English rulers following the Income Tax Act of England. After five years of its introduction, it has been repealed and withdrawn in 1867 due to the rapid changes in the political and socio-economic culture of the state. Then it has been again introduced by the government as the License Act, 1987 to finance the budget deficit. In 1868, the name of the Act has been changed as “The Certificate Act, 1868” featuring certain provisions like reduced tax rates, tax exemption up to a certain limit of total income, tax relief for agricultural income etc.

In 1869, “The Income Tax Act – II” has been passed after doing necessary changes in “The Certificate Act, 1868”. Here tax has again been charged on agricultural income. This Act has been repealed and withdrawn again in 1873 but later further introduced in 1877 in the name of “The License Tax Act, 1877”. It has been followed upto 1886. In 1886, British government has introduced

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“The Income Tax Act – 1886; Act II of 1886”. Again in 1918, incorporating various amendments of this Act, “The Income Tax Act – 1918; Act VII of 1918” has been passed by the English government. In this Act, the total income has been divided into six heads named salaries, interest on securities, income from house property, income from business, Income from profession and income from other sources.

In 1921, a committee named “All India Committee” has been formed to evaluate the need for necessary changes in this act. On the basis of the recommendations and guidelines suggested by this committee, “The Income Tax Act – 1922; Act XI of 1922” has been introduced. The introduction of this act is considered the most significant achievements in the income tax law in Indian Subcontinent since the current tax laws of Pakistan, India and Bangladesh has been introduced on the basis of this Act. India and Pakistan both the country accepted “The Income Tax Act – 1922; Act XI of 1922” as their income tax law after their independence from British rule in 1947. Then in India “The Income Tax Act – 1961” has been introduced incorporating necessary changes in the earlier Act of 1922. But, Pakistan had been following the old “The Income Tax Act – 1922; Act XI of 1922” incorporating some amendments in the following years like Tax Holiday Scheme of 1959, Self-assessment system of 1965 etc.

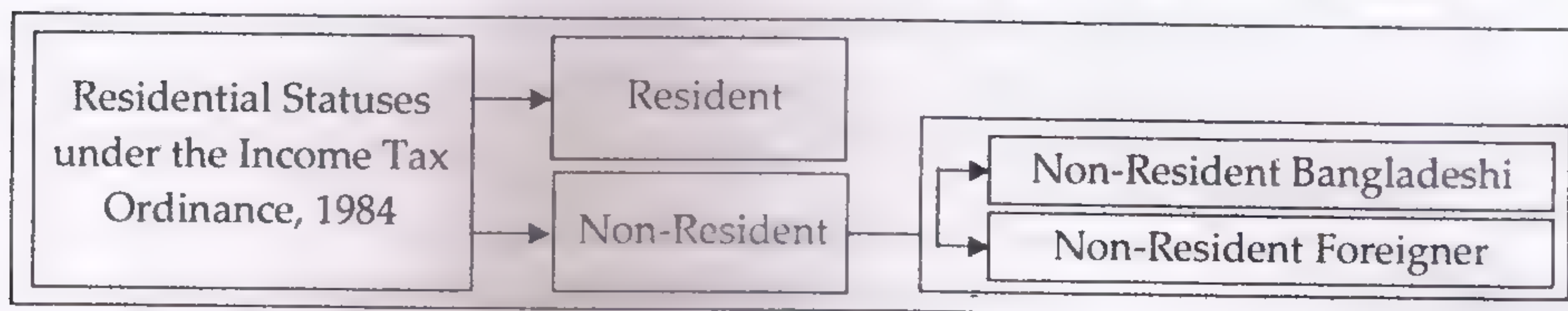
After its independence in 1971, Bangladesh has also inherited the “The Income Tax Act – 1922” which has been followed in Pakistan and adopted it with necessary changes made from time to time. In order to modify necessary changes of the old act to cope with the demand of time, a “Taxation Enquiry Commission” has been formed in 1976. As per their guidelines and recommendations, “Income Tax Ordinance, 1984 (XXXVI of 1984) has been introduced repealing “The Income Tax Act – 1922”. The Income Tax Ordinance, 1984 came into force on 1st July, 1984 as the Income Tax Manual I. It has 23 Chapters, 187 sections, numerous sub-sections and seven schedules containing provisions regarding assessment, penalty, appeal etc. This Ordinance is supported by the “Income Tax Rules, 1984” known as the Income Tax Manual II and various SROs. The National Board of Revenue (NBR) under the Internal Resources Division of the Ministry of Finance is responsible for the collection of all these taxes including income tax. NBR has been empowered with the right to do any kind of changes in the Income Tax Laws subject to the approval of the Parliament and relevant authorities. As a step of ongoing tax reform measures, a new draft law titled “The Direct Taxes Code, 2012” relating to direct taxes have been introduced in the year 2012. The government has a plan to make it effective from 1st July, 2018. Before passing the final Act, the government has taken opinions from various bodies and general public. The new law will reduce the current loopholes of the tax law as well as increase the revenue of tax collection in Bangladesh.

2.9 INCOME TAX PAYMENT CYCLE / PROCEDURE IN BANGLADESH:

Income tax is levied on an assessee’s total income. Such total income has to be computed as per the provisions contained in the Income Tax Ordinance 1984 and other relevant laws. Let us go step by step to understand the procedure of total income computation to levy of income tax-

- Step – 1: Determination of Income Year (time period covered) and Assessment Year:** The time period covered in the relevant income year of an assessee has to be determined first. The income earned during the relevant income year time period will be considered for computing total income. The assessment year will also be determined accordingly.
- Step – 2: Determination of Residential Status:** The residential status of a person has to be determined to ascertain which income is to be included in computing the total income.

The residential statuses as per the Income Tax ordinance, 1984 are shown below:



The residential status of a person determines the taxability of the income. For e.g., income earned outside Bangladesh will not be taxable in the hands of a non-resident but will be taxable in case of a resident.

Step – 3: Classification of Income under Different Heads: According to ITO, 1984 and Income Tax Return Format, total income is classified under ten heads. They are –

- | | |
|--------------------------------------|------------------------------|
| 1. Salaries | 6. Interest on Securities |
| 2. Income from House Property | 7. Agricultural Income |
| 3. Income from Business & Profession | 8. Capital gain |
| 4. Income from Other Sources | 9. Share of profit in a Firm |
| 5. Income of Spouse or Minor Child | 10. Foreign Income |

These heads of income exhaust all possible types of income that can accrue to or be received by the taxpayer. The taxpayer has to classify the income earned under the relevant head of income.

Step – 4: Exclusion of Income not Chargeable to Tax: There are certain incomes which are wholly exempt from income tax e.g. pension, gratuity, interest on zero coupon bond. These incomes have to be excluded and will not form part of Gross Total Income. Also, some incomes are partially exempt from income tax e.g. house rent allowance, conveyance allowance. These incomes are excluded only to the extent of the limits specified in the Act. The balance income over and above the prescribed exemption limits would enter computation of total income and have to be classified under the relevant head of income.

Step – 5: Computation of Income under each Head: Income is to be computed in accordance with the provisions governing a particular head of income. Under each head, there is a charging section which defines the scope of income chargeable under that head. There are admissible expenses prescribed under each head and they will be deducted from the respective incomes to compute the net income chargeable under each head.

Step – 6: Clubbing of Income of Spouse, Minor Child etc.: In case of individuals, income tax is levied on a slab system on the total income. The tax system is progressive i.e. as the income increases, the applicable rate of tax increases. So, taxpayers in the higher income bracket may divert some portion of their income to their spouse, minor child etc. to minimize their tax burden. In order to prevent such tax avoidance, clubbing provisions have been incorporated in the ITO, 1984, under which income arising to certain persons (like spouse, minor child etc.) have to be included in the income of the person who has diverted his income for the purpose of computing tax liability.

Step – 7: Set-off or Carry Forward of Losses: An assessee may have different sources of income under the same head of income. For instance, an assessee may have profit from his textile business and loss from his printing business. The loss can be set-off against the profits of textile business to arrive at the net income chargeable under the head

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“Income from Business and Profession”. Similarly, an assessee can have loss under one head of income, say, Income from house property and profits under another head of income, say, Income from business and profession. There are provisions in the ITO, 1984 for allowing inter-head adjustment in certain cases. Further, losses which cannot be set-off in the current year due to inadequacy of eligible profits can be carried forward for set-off in the subsequent years as per the provisions of the Ordinance.

- Step – 8: Computation of Gross Total Income:** The final figures of income or loss under each head of income, after allowing the deductions, allowances and other adjustments, are then aggregated, after giving effect to the provisions for clubbing of income and set-off and carry forward of losses, to arrive at the gross total income.
- Step – 9: Deductions from Gross Total Income:** There may have deductions prescribed from Gross Total Income. Such as, as per ITO, 1984 if agriculture is the only source of income there will be a deduction of Tk. 200,000 from the Gross Total Income.
- Step – 10: Total Income:** The income arrived at, after claiming the above deductions from the Gross Total Income is known as the Total Income. It is also called the Taxable Income.
- Step – 11: Application of the Rates of Tax on the Total Income:** The rates of tax for the different classes of assesses are prescribed by the Finance Act. For individuals, HUF, Firm, AOP and AJP, there is a slab rate and basic exemption limit. At present, the following tax rate is applicable in the assessment year 2017-2018:

Income slab	Rate
On the first Tk. 250,000 of total income	Nil
On the next Tk. 400,000 of total income	10%
On the next Tk. 500,000 of total income	15%
On the next Tk. 600,000 of total income	20%
On the next Tk. 30,00,000 of total income	25%
On the balance of Total income	30%

The minimum non-assessable income limit will be Tk. 300,000 for women, and elderly citizens being more than 65 years of age. For disable persons and gazetted wounded freedom fighters the minimum non-assessable income limit will be Tk. 400,000 and Tk. 425,000 respectively. *The minimum non-assessable limit of the parents or legal guardians of disable/handicapped person will be Tk. 25,000 more, but in case of being both father and mother taxpayer, only one will avail the benefit.*

However, the minimum tax would be Tk. 5,000 (Dhaka -North & South & Chittagong city corporation area), Tk. 4,000 (other city corporation area), Tk. 3,000 (areas other than city corporation). For companies, different tax rates are applicable (e.g. Banks 40% to 42.5%, Public Limited Co. 25%, Private Limited Co. 35% etc. The tax rates have to be applied on the total income to arrive at the **gross income tax liability**.

- Step – 12: Surcharge:** Surcharge is an additional tax payable over and above the income tax. Surcharge is levied as a percentage of income tax. For the assessment year 2017-18 surcharge is applicable as:

Net Wealth Amount	Rate of Surcharge
Upto Tk. 2.25 crore	Nil
More than Tk. 2.25 crore but less than Tk. 5 crore	10%
More than Tk. 5 crore but less than Tk. 10 crore	15%
More than Tk. 10 crore but less than Tk. 15 crore	20%

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More than Tk. 15 crore but less than Tk. 20 crore	25%
More than Tk. 20 crore	30%

If net wealth amount exceeds Tk. 2.25 crore, minimum surcharge amount will be Tk. 3,000. Moreover, 2.5% surcharge will be applicable on a taxpayer's income from Cigarette, Biri, Jorda, Gul and other tobacco made products manufacturing business.

- Step – 13: Computation of Gross Tax Liability and Surcharge:** By adding gross income tax liability and surcharge an assessee can determine the total amount payable as income tax and surcharge.
- Step – 14: Deduction of Tax Credit / Rebate on Tax Free Income and Investment Allowance:** From the total amount payable as income tax and surcharge the assessee will deduct rebates. As per the provisions of the ITO, 1984 tax rebate is allowed –
- ⇒ @ **Average rate** on tax free income (e.g. share of profit in a firm / AOP).
 - ⇒ @ **10% to 15%** on investment allowance. Some example like purchase of listed company's share, government securities, savings certificate etc. will be considered as investment allowance. However, maximum amount eligible for tax rebate would be restricted to the lower of **25%** of the total income or **Tk. 1.5 crore**.
- After deducting the rebates from total liability an assessee will get the amount of **net liability after considering tax rebates**.
- Step – 15: Adjustment of Advance tax, Tax deducted at source (TDS) and Refund:** Although the tax liability of an assessee is determined only at the end of the year, tax is required to be paid in advance in certain installment on the basis of estimated income. In certain cases, tax is required to be deducted at source from the income by the payer at the rates prescribed in the Act. Such deduction should be made either at the time of accrual or at the time of payment, as prescribed by the ITO, 1984. For example, in the case of salary income, the obligation of the employer to deduct tax at source arises only at the time of payment of salary to the employees. Such tax has to be remitted to the respective Tax Circle and Zone through Treasury Challan or Bank draft. Moreover, if the assessee has paid excess amount of tax in prior year than the desired tax liability, he can claim refund for the excess which can be adjusted with the tax liability of the next year at the option of the assessee. After adjusting advance tax, tax deducted at source and refund, the assessee will get the net tax liability to be paid along with income tax return.
- Step – 16: Obtaining the Tax Identification Number (TIN):** An assessee has to obtain a 12 digit E-TIN through online/from tax office if his total income exceeds the non-assessable limit (e.g. Tk. 250,000/Tk. 300,000/Tk. 400,000/Tk. 425,000 in respective cases) before submitting the Income Tax Return.
- Step – 17: Submission of Income tax return and payment of tax:** If any tax is still due on the basis of return of income, after adjusting advance tax, tax deducted at source and refund, the assessee has to pay such tax (called self-assessment tax) at the time of filing of the return. The Income Tax Return is submitted within due date to the tax office following relevant procedure.

2.10 RIGHTS AND OBLIGATION OF A TAXPAYER UNDER THE ITO, 1984

2.10.1 General Rights:

1. A Taxpayer is entitled to receive professional service and assistance from the concerned Taxes offices including supply of forms and brochures, guidelines for submitting tax returns etc.

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2. A Taxpayer may either represent himself for any of his tax matters or, engage an authorized representative as provided in the law.
3. A Taxpayer is entitled to have access to his own tax records held by the office.
4. The Tax Authorities are required to act impartially and use their powers in a fair and professional manner.
5. Burden of proof is shifted to the DCT in figuring admissible disallowance or deduction [sec. 30A].
6. The taxpayer has a right to be heard before a penalty is imposed [sec. 130].
7. The taxpayer is entitled to instant refund as soon as it becomes due [sec. 135(1A)].
8. A taxpayer is entitled to 7.5% interest per annum on the unpaid refund if refund due is not paid within 2 months [sec. 151].
9. Collection cannot be enforced on a taxpayer so long as his appeal is not disposed of [sec. 135(3)]
10. In certain situations, taxpayer may avail installment payment of arrears [sec. 135(2)]
11. The taxpayer has the right to apply for alternative dispute resolution of a dispute which is pending before any income tax authority, tribunal or court. [sec 152I]
12. The taxpayer enjoys a confidentiality privilege [protection of information] [sec. 163]
13. A taxpayer applying for E-TIN through online / in a prescribed manner becomes entitled to be registered with the tax authority [sec. 184B]
14. A taxpayer is protected from unilateral authoritarian action of the Revenue under a specific law enacted for the purpose [sec. 84]
15. Taxpayers performing as withholding agents are indemnified for deduction or retention or payment of tax on behalf of other taxpayers [sec. 181].

2.10.2 Appeal Rights

When to Appeal

An assessee has the right of appeal if he is aggrieved by:

- ❖ any order of a Deputy Commissioner of Taxes (DCT) or of any other authority exercising the assessment functions; or
- ❖ any order of an Inspecting Joint Commissioner of Taxes or an Inspecting Addl. Commissioner of Taxes revising the order of the DCT.

Initial Appeal

As indicated in the Notice of Demand:

- ❖ A non-corporate assessee may prefer an appeal before the Appellate Joint Commissioner of Taxes or the Appellate Addl. Commissioner of Taxes.
- ❖ A corporate assessee may prefer an appeal before the Commissioner of Taxes (Appeal).

How and when to file an Appeal

- ❖ Every appeal has to be drawn up in a prescribed form –
 - a) rule 27 for an Appeal to the Appellate Joint Commissioner of Taxes or the Appellate Addl. Commissioner of Taxes.
 - b) rule 27A for an Appeal to the Commissioner of Taxes (Appeals);

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- c) be accompanied by a fee of Tk 200 (Sec. 154).
- ❖ An appeal shall be presented within 45 days,
 - a) if it relates to assessment or penalty, from the date of service of the notice of the demand,
 - b) in any other case, from the date the impugned order is served.
- ❖ An appellate authority may admit an appeal beyond the period of limitation on cogent grounds.
- ❖ An appellate authority may admit at the hearing stage any documentary evidence that was not produced before the DCT - provided it could be proved that the appellant was prevented by sufficient cause from producing such evidence before the DCT.
- ❖ The appellant has the right to be heard either in person or by an "authorized representative".
- ❖ No Appeal, however, shall lie unless tax payable under section 74 (admitted liability on the basis of return) has been paid (Sec. 153(3)).
- ❖ An Appeal shall be deemed to have been allowed if the aforesaid authorities fail to make an order within one hundred and fifty (150) days from the end of the month on which the Appeal was filed (Sec 156).
- ❖ The aforesaid Appellate authorities shall be communicate the Appeal order to the appellant within thirty (30) days from the date of passing such order (Sec 156).

Subsequent Appeals

1. **Appeal to the Appellate Tribunal:** An assessee may appeal to the Appellate Tribunal if he is aggrieved by an order of the Appellate Joint Commissioner of Taxes or the Appellate Addl. Commissioner of Taxes or the Commissioner of Taxes (Appeals).

How and when to file an Appeal:

- ❖ The appeal has to be filed within ninety (90) days of communication of the order sought to be appealed in a prescribed form (Rule 28) accompanied by a fee of Tk. 1,000.
 - ❖ No Appeal shall lie unless the assessee has paid ten per cent (10%) of the amount representing the difference between the tax as determined on the basis of the order of the Appellate Joint Commissioner or the Appellate Addl. Commissioner of Taxes or the Commissioner of Taxes (Appeals) and the tax payable under section 74; The commissioner of Taxes may reduce the payment in reasonable ground on application (Sec 158).
 - ❖ Appellant may however seek waiver to the Commissioner of Taxes who is the final authority.
 - ❖ An Appeal filed by an assessee shall be deemed to have been allowed if the Tribunal fails to make an order within a period of 8 months from the end of the month in which the Appeal was filed (Section – 159).
 - ❖ The order of Appellate Tribunal has to be communicated to the appellant within 30 days from the date of passing such order.
2. **Reference to the High Court Division of the Supreme Court:** An assessee may make a reference to the High Court Division if still aggrieved with the decision of the Tribunal on any question of law. The reference may be made in prescribed form (Rule 29) within ninety (90) days from the date of receipt of the order of the Tribunal accompanied by a fee of Tk. 2000 (Sec 160). But in this regard, no reference by an assessee shall lie unless

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he has paid 15% of the amount representing the difference between the tax as determined on the basis of the order of the Taxes Appellate Tribunal and the tax payable under section 74 where tax demand does not exceed one million taka. This rate is 25% where tax demand exceeds one million taka.

3. **Appeal to the Appellate Division of the Supreme Court:** An Appeal against the judgment of the High Court Division shall lie to the Appellate Division provided it is certified by the High Court Division to be a fit case for appeal. However, tax shall be payable as per the demand unless the recovery thereof has been stayed by the High Court Division or Appellate Division [Sec 161(4) & Sec 162(4)].
4. **Alternative Dispute Resolution:** The assessee has the right to resolve any dispute lying with any income tax authority, taxes Appellate Tribunal or Court through Alternative Dispute Resolution (ADR).

2.10.3 Obligations of a Taxpayer

1. A Taxpayer should file correct Return by disclosing all his income, provide supporting documents and pay due tax within the time limit specified by law.
2. A Taxpayer is required to pay advance tax on a four quarterly basis if his latest assessed income exceeded Tk. 4 lakh (excluding agricultural income and capital gains).
3. An individual taxpayer is obliged to provide details of his assets and liabilities as well as particulars of his lifestyle in the return.
4. A Taxpayer is required to comply with statutory notices issued by the tax authority.
5. A Taxpayer is required to furnish to the tax authority correct and accurate particulars of his income.
6. A Taxpayer having commercial transaction is required to maintain accounts in the prescribed manner.
7. A Taxpayer is obliged to furnish certificate, statement, accounts and information as required u/s 58, 108, 109, 110 or 113.
8. A Taxpayer having income from business or profession is obliged to display TIN certificate at a conspicuous location of his business premises.

A Taxpayer owning a property is obliged not to the transfer or otherwise deal with the said property following the receipt of notice of attachment issued by TRO.

2.10.4 Consequences of Default:

Nature of Default	Penalty leviable
1. Failure to deduct/collect tax at source, to deposit deducted/ collected tax into national exchequer [Section – 57]	(a) 2% of the amount of tax to be deducted, collected or deposited per month
2. Failure to give notice to the DCT regarding the discontinuance of business [Section – 89(3)]	(a) Maximum the amount of tax subsequently assessed
3. Failure to keep, maintain or furnish information, documents or records to the Deputy Commissioner of Taxes as required u/s 107E [Section - 107G]	(a) Maximum 1% of the value of each international transaction

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4. Failure to comply with the notice or requisition under Section – 107C regarding computation of arm's length price [Section – 107H]	(a) Maximum 1% of the value of each international transaction
5. Failure to comply with the provision of Section - 107EE regarding submission of statement of international transactions [Section – 107HH]	(a) Maximum 2% of the value of each international transaction
6. Failure to furnish report from a Chartered Accountant under Section – 107F [Section – 107I]	(a) Maximum BDT 300,000
7. Failure to maintain accounts in the prescribed manner as per Section – 35(2) (assessee does not have income from house property) [Section – 123(1)]	(a) Maximum 1.5 times of tax liability (b) Maximum BDT 100, where the total income does not exceed the maximum amount on which tax is not chargeable
8. Failure to maintain accounts in the prescribed manner as per Section – 35(2) (assessee has income from house property) [Section – 123(2)]	(a) Higher of (a) 50% of taxes payable on house property income or (b) BDT 5,000
9. Failure to file return of income or withholding tax in due time [Section 124].	(a) 10% of the tax imposed on last assessed income; (b) for continuing default Tk. 50/- per day; (c) minimum penalty Tk. 1,000/- (d) Such penalty shall not exceed: for individual assessee whose income was not assessed previously Tk. 5,000; whose income assessed previously, 50% of the tax payable on the last assessed income or Tk. 1000, whichever is higher.
10. Failure to file or furnish certificate (including TIN certificate), statement, accounts, information required by or u/s. 58, 108, 109, 110, 148C [Sec 124].	(a) Tk. 500/- (b) for continuing default, a further penalty of Tk. 250/- per month.
11. Failure to furnish information to the DGCIC or the DCT under Section 113 [Section 124].	(a) Tk. 25,000/- (b) for continuing default, a further penalty of Tk. 500/- per day.
12. Penalty for using fake TIN [Sec 124A]	(a) Not exceeding Tk. 20,000/-
13. Penalty for failure to verify the authenticity of Taxpayer's Identification Number [Sec 124AA]	(a) Not exceeding Tk. 200,000/- for serving without TIN, where it is required. (b) Upto Tk. 50,000/- for failure to verify.
14. Failure to pay advance tax [Sec 125]	(a) Maximum the amount of shortfall
15. Failure to comply with statutory notices issued under sections 79, 80, 83 [Section 126]	(a) An amount not exceeding the tax chargeable on the total income.

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16. Failure to pay minimum 80% of the tax on the basis of return [Section 127].	(a) Not exceeding 25% of the total or unpaid tax, as the case may be
17. Concealment of income or furnishing inaccurate particulars thereof or understatement of the sale value of immovable property [Section 128].	(a) 15% of the evaded tax or the value of the property, as the case may be. (b) If concealment detected after 1 year: Additional 15% for each preceding year
18. Incorrect or false audit report by Chartered Accountant [Section 129A]	(a) Minimum: BDT 50,000; Maximum: BDT 200,000
19. Furnishing fake audit report [Section 129B]	(a) BDT 100,000
20. Default in payment of tax [Section 137]	(a) Maximum amount of arrear tax

2.10.5 Punishment for non-compliance of certain obligations:

Subject to the following conditions, punishment for non compliance of certain obligations is enumerated in various provisions of the ITO 1984:

- ❖ No prosecution shall be instituted except with the previous sanction of the National Board of Revenue.
- ❖ Commissioner is empowered to compound any punishable offence either before or after the institution of prosecution.

Nature of noncompliance	Punishment
1. a) failure to deduct or collect and pay tax as required under the relevant provisions except advance payment of tax b) failure to comply with third party obligation u/s 143(2); c) failure to produce, accounts, documents or statements; d) refuses to furnish information as necessary u/s 113. e) failure to furnish return of income; f) refusing to permit inspection or to allow copies to be taken in accordance with the provisions of sec. 114; g) failure to extend required co-operation to an income tax authority exercising powers u/s115; h) failure to comply with the requirement under section 116(1) i) failure to comply with the requirement under section 116A(1) j) refusing to permit or obstructing the exercise of powers by an income tax authority u/s 117.	maximum one year imprisonment, or with fine, or both [Section 164]
2. a) making false statement in any verification in any return or document furnished b) aiding, abetting, assisting, inciting or inducing another person to make or deliver a false return account, statement, certificate or declaration.	

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<p>c) making or delivering himself knowingly and willfully any false return, account, statement, certificate or declaration on behalf of another person;</p> <p>d) signing and issuing any false certificate under proviso of sec. 82.</p> <p>e) refusing to furnish required information u/s. 115.</p>	3 months to 3 years imprisonment, or with fine, or both [Section 165].
3. Punishment for improper use of TIN Number	upto 3 years imprisonment, or with fine upto Tk. 50,000, or both [Sec 165A].
4. Punishment for furnishing fake audit report	3 months to 3 years imprisonment, or with fine upto Tk. 1 lac, or both [Section 165AA].
5. Punishment for obstructing an income tax authority	upto 1 year imprisonment, or with fine, or both [Section 165B].
6. Punishment for unauthorized employment of a non-Bangladeshi citizen	3 months to 3 years imprisonment, or with fine upto Tk. 500,000, or with both [Section 165C].
7. Concealment of income and furnishing inaccurate particulars thereof	3 months to 5 years imprisonment, or with fine, or with both [Section 166].
8. Transferring property to pre-empt attachment by TRO	Maximum 5 years imprisonment or with fine or with both [Sec 167].
9. Disclosure of protected or confidential information by a public servant or any person engaged in the execution of the ITO, 1984.	Maximum 6 months imprisonment, or with fine [Section 168].

2.11 RELEVANT STATUTORY DEFINITIONS & IMPORTANT CONCEPTS

1. Agricultural income [Section 2(1)]: “agricultural income” means –

(a) any income derived from any land in Bangladesh and used for agricultural purposes:

- (i) by means of agriculture; or
- (ii) by the performance of any process ordinarily employed by a cultivator to render marketable the produce of such land; or
- (iii) by the sale of the produce of the land raised by the cultivator in respect of which no process, other than that to render the produce marketable, has been performed; or
- (iv) by granting a right to any person to use the land for any period; or

(b) any income derived from any building which –

- (i) is occupied by the cultivator of any such land as is referred to in sub-clause (a) in which any process is carried on to render marketable any such produce as aforesaid;

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- (ii) is on, or in the immediate vicinity of such land; and
 - (iii) is required by the cultivator as the dwelling house or store-house or other out-house by reason of his connection with such land.
2. **Annual Value [Section 2(3)]:** "annual value" shall be deemed to be—
- (a) in relation to any property let out—
 - (i) the sum for which property might reasonably be expected to let from year to year and any amount received by letting out furniture, fixture, fittings etc.; or
 - (ii) where the annual rent in respect thereof is in excess of the sum referred to in paragraph (i), the amount of the annual rent.
3. **Appellate Joint Commissioner [Section 2(4)]:** "Appellate Joint Commissioner" means a person appointed to be an Appellate Joint Commissioner of Taxes under section 3 [and includes an Appellate Assistant Commissioner of Taxes] [and also a person appointed to hold current charge of an Appellate Joint Commissioner of Taxes].
4. **Assessee [Section 2(7)]:** "Assessee", means a person by whom any tax or other sum of money is payable under this Ordinance, and includes—
- (a) every person in respect of whom any proceeding under this Ordinance has been taken for the assessment of his income or the income of any other person in respect of which he is assessable, or of the amount of refund due to him or to such other person;
 - (b) every person by whom a minimum tax is payable under this Ordinance;
 - (c) every person who is required to file a return under section 75, section 89 or section 91;
 - (d) every person who desires to be assessed and submits return under this Ordinance; and
 - (e) every person who is deemed to be an assessee, or an assessee in default, under any provision of this Ordinance;
5. **Assessment [Section 2(8)]:** "assessment", with its grammatical variations and cognate expressions, includes re-assessment and additional or further assessment;
6. **Assessment Year [Section 2(9)]:** "assessment year" means the period of twelve months commencing on the first day of July every year; and includes any such period which is deemed, under the provisions of this Ordinance, to be assessment year in respect of any income for any period;
7. **Business [Section 2(14)]:** "business" includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture;
8. **Capital asset [Section 2(15)]:** "capital asset" means property of any kind held by an assessee, whether or not connected with his business or profession, but does not include—
- (a) any stock-in-trade (not being stocks and shares), consumable stores or raw materials held for the purposes of his business or profession; and
 - (b) personal effects, that is to say, movable property (including wearing apparel, jewellery, furniture, fixture, equipment and vehicles), which are held exclusively for personal use by, and are not used for purposes of the business or profession of the assessee or any member of his family dependent on him.
9. **Charitable Purpose [Section 2(16)]:** "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any object of general public utility;
10. **Child [Section 2(18)]:** "child", in relation to any individual, includes a step-child and an adopted child of that individual;

- 11. Company [Section 2(20)]:** "Company" means a company as defined in [the Companies Act, 1913 (VII of 1913) or the Companies Act, 1994 (VIII of 1994)] and includes –
- (a) a body corporate established/constituted by or under any law for the time being in force;
 - (b) any nationalized banking or other financial institution, insurance body and industrial or business enterprise;
 - (bb) an association or combination of persons, called by whatever name, if any of such persons is a company as defined in the Companies Act, 1913 (VII of 1913) or the Companies Act, 1994 (VIII of 1994);
 - (bbb) any association or body incorporated by or under the laws of a country outside Bangladesh; and;
 - (c) any foreign association/body, [not incorporated by or under any law], which the Board may, by general/special order, declare to be a company for the purposes of this Ordinance;
- 12. Deputy Commissioner of Taxes [Section 2(23)]:** "Deputy Commissioner of Taxes" means a person appointed to be a Deputy Commissioner of Taxes under section 3, and includes a person appointed to be a Transfer Pricing Officer, an Assistant Commissioner of Taxes, an Extra Assistant Commissioner of Taxes and a Tax Recovery Officer;
- 13. Dividend [Section 2(26)]:** "Dividend" includes—
- (a) any distribution by a company of accumulated profits, whether capitalized or not, if such distribution entails the release by the company to its shareholders of all or any part of its assets or reserves;
 - (b) any distribution by a company, to the extent to which the company possesses accumulated profits, whether capitalized or not, to its shareholders of debentures, debenture-stock or deposit certificates in any form, whether with or without interest;
 - (c) any distribution made to the shareholders of a company on its liquidation to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalized or not;
 - (d) any distribution by a company to its shareholders on the reduction of its capital, to the extent to which the company possesses accumulated profits, whether such accumulated profits have been capitalized or not;
 - (dd) any profit remitted outside Bangladesh by a company not incorporated in Bangladesh under the Companies Act, 1994 (VIII of 1994);
 - (ddd) any distribution of profit of a mutual fund or an alternative investment fund.
 - (e) any payment by a private company of any sum (whether representing a part of the assets of the company or otherwise) by way of advance or loan to a shareholder or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company, in either case, possesses accumulated profit;
- but does not include –
- (i) a distribution made in accordance with sub-clause (c) or sub-clause (d) in respect of any share including preference share for full cash consideration, or redemption of debentures or debenture-stock, where the holder of the share or debenture is not entitled in the event of liquidation to participate in the surplus assets;
 - (ii) any advance or loan made to a shareholder in the ordinary course of its business, where the lending of money is a substantial part of the business of the company;
 - (iia) any bonus share issued by a company.
- 14. Employer [Section 2(27)]:** "employer" includes a former employer;

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15. **Employee [Section 2(28)]:** "employee", in relation to a company, includes the managing director, or any other director or other person, who irrespective of his designation, performs, any duties or functions in connection with the management of the affairs of the company;
16. **Fair Market Value [Section 2(30)]:** "fair market value" means, in relation to capital asset –
- the price which such asset would ordinarily fetch on sale in the open market on the date on which such price is not ascertainable, the price which the Deputy Commissioner of Taxes may, with the approval in writing of the Inspecting Joint Commissioner of Taxes;
 - the amount received from the lessee in case of an asset leased by a financial institution, or the amount received from the Bangladesh Bank on termination of lease agreement on the date of termination subject to the condition that such residual value plus amount received during the currency of the lease agreement towards the cost of the asset is not less than the cost of acquisition to the lessor financial institution.
17. **Fees for Technical Services [Section 2(31)]:** "fees for technical services" means any consideration (including any lump sum consideration) for the rendering of any managerial, technical, or consultancy services (including the provision of services of technical or other personnel) but does not include consideration for any construction, assembly, mining or like project undertaken by the recipient, or consideration which would be income of the recipient classifiable under the head "Salaries";
18. **Income [Section 2(34)]:** "income" includes –
- any income, receipts, profits or gains, from whatever source derived, chargeable to tax under any provision of this Ordinance;
 - any amount which is subject to collection or deduction of tax at source under any provision of this Ordinance
 - any loss of such income, profits or gains;
 - the profits and gains of any business of insurance carried on by a mutual insurance association computed in accordance with paragraph 8 of the Fourth Schedule;
 - any sum deemed to be income, or any income accruing or arising or received, or deemed to accrue or arise or be received in Bangladesh under any provision of this Ordinance;
 - any amount on which a tax is imposed;
 - any amount which is treated as income under any provision of this Ordinance.
19. **Income Year [Section 2(35)]:** "income year", means:
- the period beginning with the date of setting up of a business and ending with the thirtieth day of June following the date of setting up of such business;
 - the period beginning with the date on which a source of income newly comes into existence and ending with the thirtieth day of June following the date on which such new source comes into existence;
 - the period beginning with the first day of July and ending with the date of discontinuance of the business or dissolution of the unincorporated body or liquidation of the company, as the case may be;
 - the period beginning with the first day of July and ending with the date of retirement or death of a participant of the unincorporated body;
 - the period immediately following the date of retirement, or death, of a participant of the unincorporated body and ending with the date of retirement, or death, of another

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- participant or the thirtieth day of June following the date of the retirement, or death, as the case may be;
- (f) in the case of bank, insurance or financial institution or any subsidiary thereof the period of twelve months commencing from the first day of January of the relevant year; or
 - (g) in any other case the period of twelve months commencing from the first day of July of the relevant year;"
- "Provided that the DCT may allow a different financial year for a company which is a subsidiary, including a subsidiary thereof, or a holding company of a parent company incorporated outside Bangladesh or a branch or liaison office thereof, if such company requires to follow a different financial year for the purpose of consolidation of its accounts with the parent company;"*
20. **Interest [Section 2(38)]:** "Interest" means interest payable in any manner in respect of any money borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the money borrowed or debt incurred or in respect of any credit facility which has not been utilized;
21. **Market Value [Section 2(40)]:** "market value" in respect of agricultural produce, means:
- (a) where such produce is ordinarily sold in the market in its raw state or after application to it of any process employed by a cultivator to render it fit to be taken to the market, the value calculated according to the average price at which it has been sold during the year previous to that in which the income derived from such produce first becomes assessable;
 - (b) where such produce is not ordinarily sold in the market in its raw state, the aggregate of -
 - (i) the expenses of cultivation;
 - (ii) the land development tax or rent paid for the lands in which it was grown; and
 - (iii) such amount as the Deputy Commissioner of Taxes finds, having regard to the circumstances of each case, to represent a reasonable rate of profit on the sale of the produce in question as agricultural produce;
22. **Non-resident [Section 2(42)]:** "non-resident" means a person who is not a resident;
23. **Perquisite [Section 2(45)]:** "perquisite" means –
- (i) any payment made to an employee by an employer in the form of cash or in any other form excluding basic salary, festival bonus, incentive bonus not exceeding ten percent of disclosed profit of relevant income year, arrear salary, advance salary, leave encashment or leave fare assistance and overtime, and
 - (ii) any benefit whether convertible into money or not, provided to an employee by an employer, called by whatever name, other than contribution to a recognized provident fund, approved pension fund, approved gratuity and approved superannuation fund;
24. **Person [Section 2(46)]:** "person" includes an individual, a firm, an association of persons, a Hindu undivided family, a trust, a fund, a local authority, a company, an entity and every other artificial juridical person;
25. **Profits in lieu of salary [Section 2(50)]:** "profits in lieu of salary" includes –
- (a) the amount of compensation due to, or received by, an assessee from his employer at, or in connection with, the termination of, or the modification of any terms and conditions relating to, his employment; and
 - (b) any payment due to, or received by, an assessee from a provident or other fund to the extent to which it does not consist of contributions by the assessee and the interest on such contributions;

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26. **Recognized Provident Fund [Section 2(52)]:** "recognized provident fund" means a provident fund which has been, and continues to be, recognized by the Commissioner in accordance with the provisions of Part B of the First Schedule;

27. **Resident [Section 2(55)]:** "resident", in respect of any income year, means—

(a) an individual who has been in Bangladesh—

(i) for a period of, or for periods amounting in all to, 182 days or more in that year; or

(ii) for a period of, or periods amounting in all to, 90 days or more in that year having previously been in Bangladesh for a period of, or periods amounting in all to, 365 days or more in any four years preceding that year;

(b) a Hindu undivided family, or other association of persons, the control and management of whose affairs is situated in Bangladesh in that year; and

(c) a company or other company the control and management of whose affairs is situated in Bangladesh in that year;

28. **Consideration [Section 2(56)]:** means consideration (including any lump sum consideration) in which is classifiable as income of the recipient under the head

(a) the transfer of all or any rights, including the granting of a license in respect of a patent, invention, model, design, secret process or formula, or trade mark or similar property;

(b) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret process or formula, or trade mark or similar property;

(c) the use of any patent, invention, model, design, secret process or formula, or trade mark or similar property;

(d) the imparting of any information concerning technical, industrial, commercial, or scientific knowledge, experience or skill;

(e) the transfer of all or any rights, including granting of a license, in respect of any copyright, literary, artistic or scientific work, including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting, but not including consideration for sale, distribution or exhibition of cinematograph films; or

(f) the rendering of any services in connection with any of the aforesaid activities;

29. **Salary [Section 2(58)]:** "salary" includes-

(a) Any pay or wages;

(b) any annuity, pension or gratuity;

(c) any fees, commission, allowances, perquisites or profits in lieu of, or in addition to salary or wages;

(d) any advance of salary;

(e) any leave encashment.

30. **Tax [Section 2(62)]:** "tax" means the income tax and includes any additional tax, excess profit tax, penalty, interest, fee or other charges leviable or payable under this Ordinance;

31. **Tax Day [Section 2(62A)]:** "Tax Day" means-

(a) in the case of an assessee other than a company, the thirtieth day of November following the end of the income year;

(b) in the case of a company, the fifteenth day of the seventh month following the end of the income year; or the fifteenth day of September following the end of the income year where the said fifteenth day falls before the fifteenth day of September.

- (iii) the next working day following the Tax Day if the day mentioned in sub-clauses (i) and (ii) is a public holiday;
32. **Total income [Section 2(65)]:** "total income" means the total amount of income referred to in section 17 computed in the manner laid down in this Ordinance, and includes any income which, under any provision of this Ordinance, is to be included in the total income of an assessee;
33. **Transfer [Section 2(66)]:** "transfer", in relation to a capital asset, includes the sale, exchange or relinquishment of the asset, or the extinguishment of any right therein, but does not include-
- (a) any transfer of the capital asset under a gift, bequest, will or an irrevocable trust;
 - (b) any distribution of the assets of a company to its shareholders on its liquidation; and
 - (c) any distribution of capital assets on the dissolution of a firm or other association of persons or on the partition of a Hindu undivided family;
34. **Year [Section 2(69)]:** "year" means a financial year.

KEY POINTS

1. Income tax is a tax on income
 2. The rate of income tax is determined by the government in the National Parliament through the Finance Act.
 3. Income tax ensures –
 - (a) revenue collection for government
 - (b) re-distribution of income
 - (c) increase in savings
 - (d) increase in capital investment
 - (e) economic development
 4. The government of Bangladesh has taken various measures to modernize the tax system and imposed various provisions in the Income Tax Ordinance, 1984 through Tax Holiday Scheme, Investment Allowance, Accelerated Depreciation Allowance etc.
 5. Accelerated Depreciation is allowed at the rate of 100% in first year for specified areas, and 80% in first and 20% in the second year for industries established in other areas.
 6. Income tax encourage people to spend in certain social development program as spending in certain areas are exempted from tax payment like contribution to president's / prime minister's relief fund.
 7. The Income Tax Ordinance, 1984 came into force on 1st July, 1984 as Income Tax Manual I. It has 23 Chapters, 187 sections, numerous sub-sections and seven schedules containing provisions regarding assessment, penalty, appeal etc.
 8. NBR can issue certain circulars (SRO) regarding income tax as and when necessary.
 9. Taxpayers can submit tax return under 'universal self-assessment' scheme.
 10. The National Board of Revenue (NBR) under the Internal Resources Division of the Ministry of Finance is responsible for the collection of all taxes including income tax.
-

Multiple choice questions:

1. Income tax is –
 - (a) Direct tax
 - (b) Indirect tax
 - (c) Progressive tax
 - (d) Regressive tax
2. Income tax is charged on the total income of a person in the –
 - (a) Fiscal year
 - (b) Assessment year
 - (c) Year assessee like to pay
 - (d) Year decided by the tax authority
3. Tax Holiday Scheme states that –
 - (a) Tax is exempted for certain product
 - (b) An entity shall be exempted from tax
 - (c) No tax is applicable for certain business
 - (d) Tax is exempted for specific time period
4. Investment allowance is given on the investment in new machineries @ –
 - (a) 15%
 - (b) 20%
 - (c) 25%
 - (d) 30%
5. The Income Tax Ordinance, 1984 came into force on –
 - (a) 1st January, 1979
 - (b) 1st July, 1984
 - (c) 1st July, 1994
 - (d) 1st January, 1984
6. For the assessment year 2017 – 18, minimum taxable income for a woman is –
 - (a) Tk. 2,20,000
 - (b) Tk. 3,00,000
 - (c) Tk. 3,50,000
 - (d) Tk. 2,75,000
7. In the Income Tax Ordinance, 1984, tax credit income has been discussed in –
 - (a) Fifth schedule – Part A
 - (b) Fifth schedule – Part B
 - (c) Sixth schedule – Part A
 - (d) Sixth schedule – Part B
8. "Taxation Enquiry Commission" has been formed in –
 - (a) 1976
 - (b) 1984
 - (c) 1990
 - (d) 1994
9. As per the Income Tax Ordinance, 1984 "person" includes the followings, except –
 - (a) individual
 - (b) hindu undivided family
 - (c) company
 - (d) none of the above

Bangladesh Income Tax – Theory and Practice

10. How many sections are there in Income Tax Ordinance, 1984 –

- (a) 150
- (b) 157
- (c) 180
- (d) 187

Identify the following statements as either true (T) or false (F):

1. Accelerated depreciation allowance is @ 100% in first year for all business set up.
2. Finance Act is issued in an annual budget.
3. Some losses of one head can be set off against positive incomes under other head.
4. Income year is the financial year immediately after the assessment year.
5. An individual residing less than 182 days in the income year cannot be a resident assessee.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

Question 2 – 1: Define Income Tax and identify some characteristics of taxes based on your definition.

Question 2 – 2: Explain the role of income tax in economic development of Bangladesh.

Question 2 – 3: State the scope of Bangladesh Income Tax Law.

Question 2 – 4: “Bangladesh inherited a system of taxation from its past British and Pakistani rulers” – explain the statement in light of history of Bangladesh Income Tax Law.

Question 2 – 5: Explain the special features of the Bangladesh income tax law.

Question 2 – 6: Explain the meaning of Income Year for different types of assessee.

Question 2 – 7: State the rules regarding determination of residential status of an assessee as per section 2(55) of Income Tax Ordinance, 1984.

Question 2 – 8: Write short note on:

- (a) Agricultural Income as per ITO, 1984
- (b) Profit in lieu of Salary as per ITO, 1984
- (c) Company as per ITO, 1984
- (d) Perquisite as per ITO, 1984

Multiple choice questions		True/False
1. a	6. b	1. F
2. b	7. d	2. T
3. d	8. a	3. T
4. b	9. d	4. F
5. b	10. d	5. F

Self review 2 – 1:

(a) Income tax is a tax on income. It is one tax and not a collection of taxes of different items of income and assessment to income tax is one whole and not a group of assessments of different items of income.

(b) Characteristics of Income Tax –

- ☒ It is a direct tax.
- ☒ The levy of Income tax is regulated by Income Tax Ordinance XXXVI of 1984.
- ☒ It is charged on the total income of an income year of a person in an assessment year.

(c) Objectives of Income Tax –

- ☒ (i) Income tax is a major source of revenue for the government
- ☒ (ii) This is possible by taxing rich people heavily and to confer benefit to the poorer section through progressive income tax
- ☒ (iii) Income tax system encourages people to save through providing tax credit facilities on investment allowance.

Self review 2 – 2:

The government of Bangladesh has taken various measures to modernize the tax system and imposed various provisions in the Income Tax Ordinance – 1984. Some of the provisions are as following –

1. Tax Holiday Scheme
2. Investment allowance
3. Accelerated Depreciation Allowance
4. Tax incentives for Small & Cottage Industries
5. Tax exemptions in certain expenditures

CHAPTER – 3

BASICS OF INCOME TAX

● LEARNING OBJECTIVES ●

After studying Chapter 3, you shall be able to understand:

- ⊕ the meaning of income year and assessment year
 - ⊕ identification of income year and assessment year
 - ⊕ importance of income year and assessment year
 - ⊕ the meaning of 'assessee' and its classification
 - ⊕ residential status of assessee and its impact
 - ⊕ rules regarding determination of residential status
 - ⊕ effect of residential status in assessment of income
 - ⊕ charge of income tax with applicable rates
-

3.1 INCOME YEAR

The general rule of taxability is that the tax is levied in each financial year commencing on 1st July (known as assessment year in the scheme of the Income tax Ordinance, 1984) in respect of income earned in the "Income year". Section 2(35) of the ITO, 1984 indicates income year as the period for which the total income of an assessee (for bank, insurance financial institution or any subsidiary thereof January to December; and for other assessee's July to June) is calculated. The income tax amount is paid in the next fiscal year or the income year and is known as assessment year. Thus, if the income year is 2016-17, assessment year will be 2017 – 18.

3.1.1 Determination of the Income Year:

According to Section 2(35) of the ITO, 1984; "income year", means—

- (i) the period beginning with the date of setting up of a business and ending with the thirtieth day of June following the date of setting up of such business; such as if a business setting up date is September 01, 2016 the income year will be 2016-17 ending with 30th June, 2017 (i.e. period covering 01.09.16 to 30.06.17);
- (ii) the period beginning with the date on which a source of income newly comes into existence and ending with the thirtieth day of June following the date on which such new source comes into existence; such as if a source of income newly comes into existence (e.g. salary income of an assessee) on January 01, 2017 the income year will be 2016-17 ending with 30th June, 2017 (i.e. period covering 01.01.17 to 30.06.17);
- (iii) the period beginning with the first day of July and ending with the date of discontinuance of the business or dissolution of the unincorporated body or liquidation of the company, as the case may be; such as if a company goes for liquidation effective from December 31, 2016 the income year will be 2016-17 (i.e. period covering 01.07.16 to 31.12.16);
- (iv) the period beginning with the first day of July and ending with the date of retirement or death of a participant of the unincorporated body; such as, if a participant of the unincorporated body dies or retires on 31st March 2017, the income year will be 2016-17 (i.e., period covering 01.07.16 to 31.03.17);

- (vi) the period immediately following the date of retirement, or death, of a participant of the unincorporated body and ending with the date of retirement, or death, of another participant or the thirtieth day of June following the date of the retirement, or death, as the case may be;
 - (vii) in the case of bank, insurance or financial institution the period of twelve months commencing from the first day of January of the relevant year; i.e. January 01 to December 31 of a year.
 - (viii) in any other case the period of twelve months commencing from the first day of July of the relevant year e.g. July 01, 2016 to June 30, 2017.
- [Provided that the DCT may allow a different financial year for a company which is a subsidiary, including a subsidiary thereof, or a holding company of a parent company incorporated outside Bangladesh or a branch or liaison office thereof, if such company requires to follow a different financial year to consolidate its accounts with the parent company]*

3.1.2 Importance of Income Year:

1. **Computation of Total Income:** An assessee has to pay tax on total income earned in the income year. Income earned in the previous or subsequent years to the income year will not be considered to compute total income of an income year.
2. **Investment Allowance:** An assessee will avail tax credit facilities for an income year only on the amount invested in that income year.
3. **Residential status:** Residential status of an assessee is determined on the basis of his stay in the income year, not in the assessment year.
4. **Submission of accounts:** The date of submitting the accounts of an assessee is determined on the basis of income year.

3.2 ASSESSMENT YEAR

According to Section 2(9) of the ITO, 1984; the term “Assessment Year” means the period of twelve months commencing on the first day of July every year. Thus, the assessment year always begins on 1st July and ends on 30th June every year. This period is also known as the financial year. Accordingly, it is the current financial year in which income of the immediately preceding year (known as income year) is assessed. From the following example, we can see the determination of assessment year:

Income year	Assessment year
1. 01.01.15 to 31.12.15	2016 - 2017
2. 01.07.16 to 30.06.17	2017 -2018

3.2.1 Exceptions to the rule of Assessment Year:

Generally, income is taxed in the subsequent year to the income year. But, in certain cases, to protect the interests of revenue, the income is taxed in the year of earning itself. Thus, in those cases the assessment year and the income year are the same. The exceptions to the normal rule of assessment year are discussed as under:

1. **Income of discontinued business [Section 89(2)]:** Where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the last income year up to the date of such discontinuance may be charged to tax in that assessment year.
2. **Persons leaving Bangladesh [Section 91(2)(b)]:** When it appears to the Assessing Officer that an individual may leave Bangladesh and has no intention to return, the

total income of such individual for the period from the expiry of the income year in relation to the current assessment year up to the probable date of his departure from Bangladesh is chargeable to tax in current assessment year itself.

3. **Income of non-resident shipping companies [Section 102(2)]:** Section 102(2) of the ITO, 1984, provides for the taxation of income of non-resident shipping companies in the year in which they earn their income in Bangladesh, provided that such companies do not have any representative here.

3.2.2 Importance of Assessment year:

1. **Computation of Tax Liability:** The tax liability of an income year is computed on the basis of the rates applicable in the assessment year.
2. **Tax exemption and tax credit facilities:** Tax exemption and tax credit facilities are to be considered on the basis of the provisions applicable for an assessment year.

So, from the above discussion it is clear that, the concept of income year and assessment year is very significant to compute the correct amount of tax.

SELF REVIEW 3 – 1

(a) Define Income year.

(b) How do you determine income year for a business newly set up in a financial year?

3.2.3 A Brief Summary of Income and Assessment Year with examples:

From the above discussions, we can sum up with following summaries regarding the identification of income year and assessment year for an assessee:

- a. For bank, insurance or financial institution income year will be the period covering twelve months commencing from the first day of January of the relevant year; i.e. English calendar year (January 01 to December 31) of a year.
- b. For other assessee's income year will be the period covering July to June. Here the income year may consist of less than twelve months under certain circumstances but will not exceed twelve months.

3.3 DEFINITION OF ASSESSEE

Assessee is a person who is liable to pay any sum under the Income Tax Ordinance, 1984 or in respect of whom the proceedings have been initiated under this Ordinance. According to Section 2(7) of the ITO, 1984, the term "Assessee" includes:

- (a) every person in respect of whom any proceeding under this Ordinance has been taken for the assessment of his income or the income of any other person in respect of which he is assessable, or of the amount of refund due to him or to such other person;
- (b) every person by whom a minimum tax is payable under this Ordinance;
- (c) every person who is required to file a return under section 75, 89 or 91;
- (d) every person desires to be assessed and submits return under this Ordinance; and
- (e) every person who is deemed to be an assessee, or an assessee in default, under any provision of this Ordinance;

The term "person" includes an individual, a firm, an association of persons, a hindu undivided family, a trust, a fund, a local authority, a company, an entity and every other artificial judicial person. [Section 2(46)]

SELF REVIEW 3 – 2

Determine the income year and the assessment year for the following independent situations:

- Mini Motors started their business on 01.08.2016.
- Prasad Bank Limited prepared its annual report covering the period from January 01, 2016 to December 31, 2016.
- Vortex Fashions closed all their business operations on March 31, 2017 permanently.

3.3.1 Classification of Assessee:

According to Section 2(46) of the ITO, 1984, assessee can be classified into two broad categories:

1. On the basis of person, and
2. On the basis of Residential Status

3.3.1.1 Classification of Assessee – on the basis of person:

According to the provisions of the ITO, 1984, assessee is a person who is liable to pay any sum under the Income Tax Ordinance, 1984 or in respect of whom the proceedings have been initiated under this Ordinance. The term person includes:

- i) Individual:** An individual is a natural person including male, female, major, minor or even a lunatic. It refers to human being. However, the income of a minor or a lunatic can only be assessed in the hands of the legal guardian or manager acting as a deemed assessee [Shridhar Udai Nairain v. CIT, (1962) 45 ITR 577(All.)].
- ii) Firm:** “Firm” has the same meaning as assigned to it in the Section IX of the Partnership Act, 1932. [Section 2(32)]
- iii) Association of Persons (AOP):** An association of persons is the one in which two or more persons join for a common purpose or common action with a view to produce income, profits or gains. It need not be on the basis of a contract. Therefore, if two or more persons join hands to carry on a business but do not constitute a partnership, they may be assessed as an AOP.
- iv) Hindu Undivided Family (HUF):** The expression “Hindu Undivided Family” is not defined by the Income Tax Ordinance, 1984 and is therefore understood in context of the definition of a Joint Hindu Family under the Hindu Law. A HUF is a coparcenary or tenancy in common consisting of all male persons descended from a common ancestor of stated degree of lineal proximity. It also includes, for certain limited purposes, wives and unmarried daughters of all such male members. They are joint in Mess, Worship and Residence; the family, as a whole is a unit of assessment.
- v) Trust:** “Trust” means the Trust constituted by the Deed of Trust in accordance with the provisions of the Trust Act 1882 (Act II of 1882). A “trust” is an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or of another and the owner.
- vi) Fund:** “Fund” means any fund established or constituted in Bangladesh in accordance to any relevant law or rule or as declared by the SEC as alternative investment fund from time to time.
- vii) Local Authority:** The term “Local Authority” is not defined by the ITO, 1984. Generally it includes municipal corporation, district board, cantonment board or other authority legally entitled to or entrusted by the government

- viii) **Company:** “Company” means a company as defined in the Companies Act, 1913 or 1994 and includes any nationalized banking or other financial institution, insurance body and industrial or business enterprise, any association or body incorporated by or under any law of Bangladesh or Outside Bangladesh. [Section 2(20)]
- ix) **Entity:** Generally the term “entity” means a lawful or legally standing unit which has legal capacity to (1) enter into agreements or contracts, (2) assume obligations, (3) incur and pay debts, (4) sue and be sued in its own right, and (5) to be accountable for illegal activities.
- x) **Artificial Judicial Person:** These are entities which are not natural persons but are separate entities in the eyes of law. It also includes all other artificial persons, with a juristic personality, if they do not fall within any of the preceding categories of persons e.g. Dhaka University, BRTC etc.
- xi) **Person with disability:** According to section 2(46A), “person with disability” means an individual registered as person with disability under section 31 of the Bangladesh Act no. 39, of 2013.

Example: Let's identify the status of the following entity as assessee: (i) Dhaka University, (ii) Shree Parvatan Pvt. Ltd., (iii) Prime Bank Limited, (iv) X and Y who are legal heirs of Z (Z died in 2009 and X and Y carry on his business without entering into partnership), (v) Unique Enterprises a firm consisting of A, B and C, (vi) A hindu joint family consisting of P, Mrs. P and their son S, (vii) Dhaka City Corporation, (viii) Comilla Cantonment Board.

Here Dhaka University i.e., (i) is an Artificial Judicial Person, likewise, (ii) is a Company, (iii) is a Company, (iv) is an Association of Persons, (v) is a Firm, (vi) is a Hindu Undivided Family, (vii) is a Local Authority, (viii) is a Local Authority.

3.3.1.2 Classification of Assessee – on the basis of residential status:

According to the residential status, an assessee can be classified into two categories:

- i) **Resident:** An individual will be a resident in any income year if he fulfills any of the conditions stated in Section 2(55) of the ITO, 1984. Such as, he should stay for a period of 182 days or more in that year.
- ii) **Non-resident:** An individual will be declared a non-resident as per Section 2(42) in any income year if he doesn't fulfill any of the conditions stated in Section 2(55) of the ITO, 1984. As per the citizenship, a non-resident can also be divided into following two categories: (a) Non-resident Bangladeshi; and (b) Non-resident Foreigner.

3.3.2 Residential Status of Assessee:

Residential status refers either to the period of stay of an assessee in Bangladesh or degree of control or management of the affairs of an assessee during the income year. This has a significant bearing on the tax liability as incidence of income tax varies according to the residential status of an assessee. For example, a non-resident will not be taxed on income earned outside Bangladesh while a resident is taxed on global income. In Bangladesh, according to the provisions stated in Section 2(55) or 2(42) of the ITO, 1984 it is determined whether an assessee is resident or non-resident. Such residential status is determined only by the specific provisions of this ordinance but not by any provision of other laws of the country. One must be kept in mind the following rules to determine residential status:

1. *Residential status is determined for each category of persons separately e.g. there are separate set of rules for determining the residential status of an individual and separate rules for firms, companies etc.*

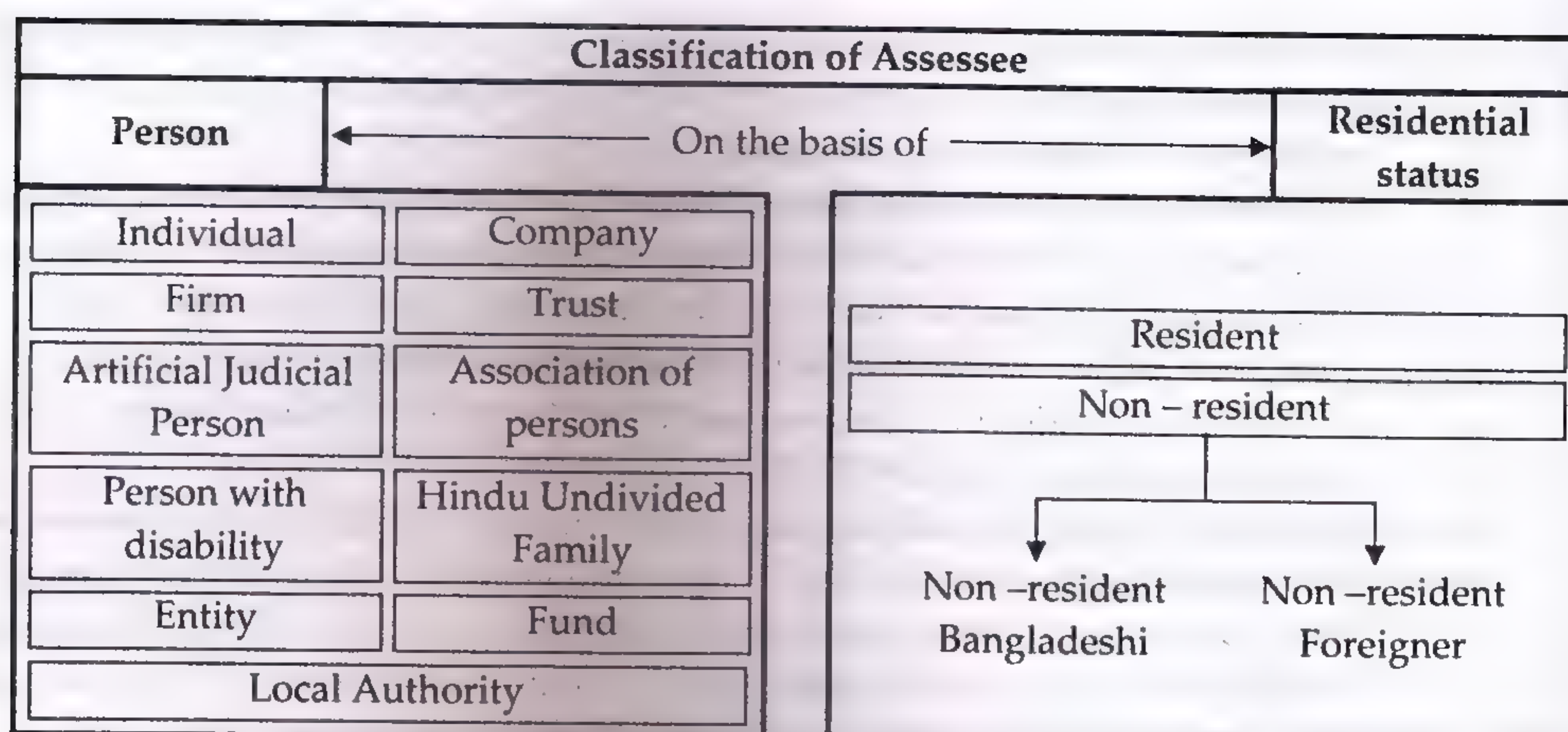
2. **Residential status is determined separately for the each income year:** Residential status may differ from year to year. In one year the assessee may be resident while in another year he may be non-resident.
3. **Residential status is always determined for the income year:** Residential status in the assessment year is immaterial for tax purposes because we have to determine the total income of the income year only. [Wallence Bros. & Co. Ltd. vs CIT (1948)]
4. **A person may be a resident of more than one country for any income year.** If Y is a resident in Bangladesh for income year 2016-17, it does not mean that he cannot be a resident of any other country for that income year.
5. **Residential status will not depend on the citizenship of the assessee:** Determination of residential status has nothing to do with either the citizenship or domicile of a person. These are decided according to the provisions of the constitution whereas the residential status is subject matter of the Income Tax Ordinance, 1984. An assessee may be a citizen of the country but may not be resident as per the ITO, 1984.
6. **Burden of proving the residential status lies with the assessee:** The burden of proof to be a resident usually lies with the assessee and he must place all relevant facts, evidence and material before the income tax authorities to substantiate his claim. [V. Vr. N. M. Subbayya Chettiar vs. CIT (1951) 019 ITR 0168 (SC)]

3.3.2.1 Effect of Residential Status in Determining Tax Liabilities:

Determination of residential status of an assessee has a significant bearing on the tax liability as incidence of income tax varies according to the residential status of an assessee. In this regard we can consider the following issues:

1. **To determine the amount of total income:** Determination of total income is different for residents and non-residents. A resident considers global income as his total income but a non-resident doesn't consider income from other countries in his total income.
2. **To determine minimum limit of taxable income:** A resident and non-resident Bangladeshi has to pay tax if his taxable income is more than Tk. 250,000 as per the ITO, 1984 (in case of women, elderly citizens being more than 65 years old the limit is Tk. 300,000, for disable persons the limit is Tk. 400,000 and for Gazetted wounded freedom fighters the limit is Tk. 425,000). But for a non-resident foreigner such minimum limit is not applicable.
3. **Tax rate:** For a resident and non-resident Bangladeshi tax is calculated using the rates applicable for various levels of income. Such as, for first Tk. 250,000 @ 0%, for next Tk. 400,000 @ 10%. But a non-resident foreigner has to pay at maximum rate [@ 30%].
4. **Income tax rebate:** A resident and non-resident Bangladeshi assessee gets income tax rebate on investment allowance and on tax exempted income from gross tax liability. But, for a non-resident foreigner no tax rebate is applicable.
5. **Tax liability:** The average tax rate applicable for a resident and non-resident Bangladeshi is less than that of a non-resident foreigner since tax is calculated using different lower tax rates (such as 10%, 15%, 20%, 25% & 30%). But a non-resident foreigner has to pay tax at maximum rate i.e. @ 30%.

Thus, Determination of residential status of an assessee has a significant bearing on the tax liability as total income, taxable income and tax rate are found to vary according to the residential status of an assessee.



3.3.2.2 Rules for determining Residential Status of an Assessee:

For determining the residential status of an assessee, Section 2(55) and 2(42) of the ITO, 1984 are important. If an assessee is not classified as 'resident' as per Section 2(55), then within the meaning of Section 2(42) he is classified as non-resident. On the basis of residence, assessee is classified into two categories, Resident and Non-resident

The residential status of an individual depends mainly on the duration of his stay in Bangladesh. In case of a firm or company, it depends on the location of its management or control during the relevant income year. In the ITO 1984, the following rules have been depicted to determine the residential status of an assessee:

a) Residential Status of an Individual:

According to Section 2(55)(a) of the ITO 1984, an individual will be a resident in any income year if he fulfills any of the following two conditions:

- ❖ if he stays in Bangladesh for a period of, or for periods amounting in all to, 182 days or more in that year; or
- ❖ for a period of, or periods amounting in all to, 90 days or more in that year having previously been in Bangladesh for a period of, or periods amounting in all to, 365 days or more during four years preceding that year;

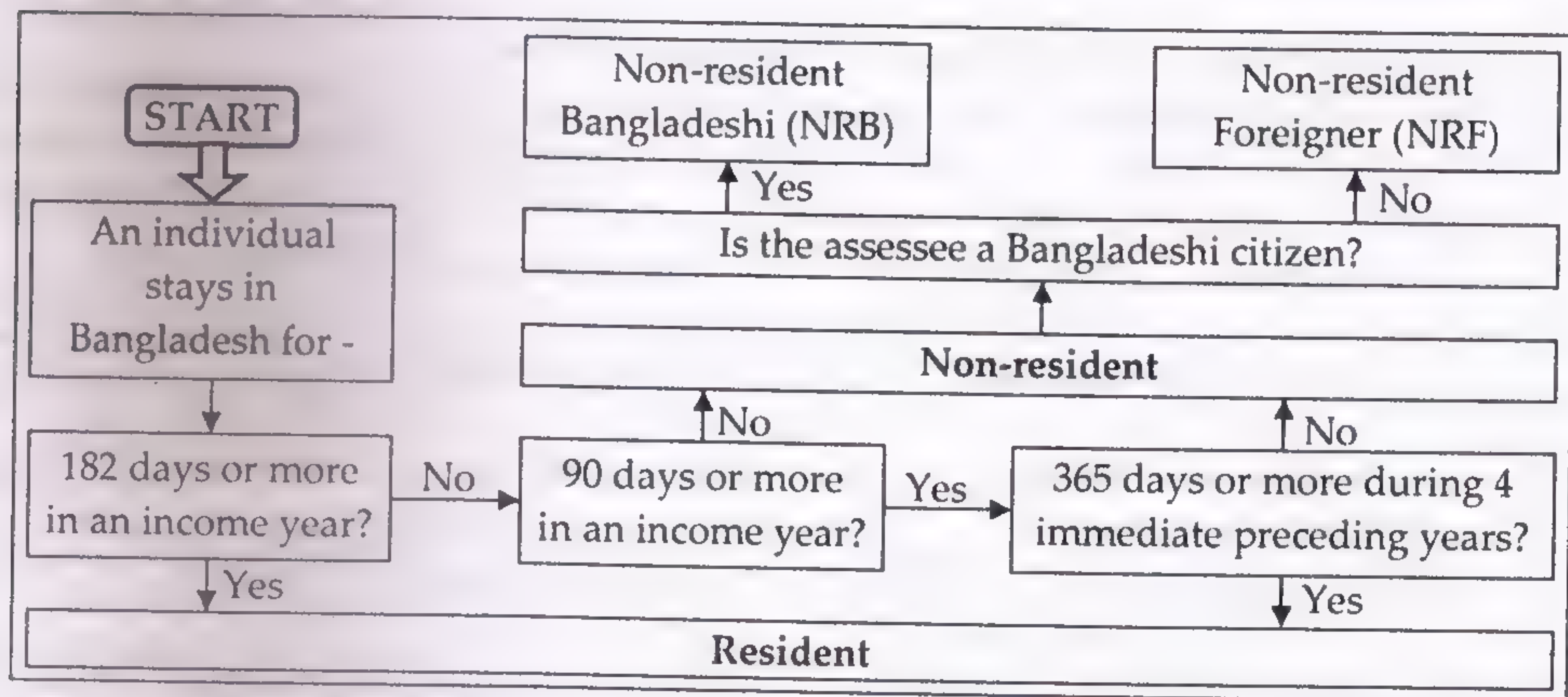
If none of the above two conditions are satisfied, such individual is **non-resident** in Bangladesh during that income year as per Section 2(42).

Points to be remembered:

- ❖ Relevant income year is the year for which the residential status is being determined.
- ❖ In computing the period of stay in Bangladesh, it is not necessary that the stay should be for a continuous period. What is to be seen is the total number of days stay in Bangladesh during the relevant income year. Moreover, visit to Bangladesh during the four preceding years might also be regular or irregular in the similar manner.
- ❖ It is also not necessary that the stay should be only at one place. E.g., he may stay at Dhaka for 90 days and then go out of Bangladesh. On return in the same income year, he may stay at Chittagong for 120 days during the same income year. His total stay in Bangladesh will be 210 days for the income year.
- ❖ Generally, in computing the period of 182 days, the day he enters Bangladesh and the day he leaves Bangladesh should both be treated as stay in Bangladesh.

However, in borderline cases where stay in Bangladesh is near about 182 days his stay in Bangladesh has to be calculated on hourly basis and a total of 24 hours will be taken as one day. For example, if a person is in Bangladesh for 82 days and 6 hours and then again he comes to Bangladesh for 20 days and 20 hours, his stay in Bangladesh will be taken as 103 days.

- ❖ In a question where hour of entry and departure is not given, we should take both day of entry and day of exit as stay in Bangladesh [Ref. AAR (1997) 223 ITR 462, the Authority for Advance Ruling].
- ❖ Place and purpose of stay in Bangladesh is immaterial. Presence in territorial waters of Bangladesh would also be regarded as presence in Bangladesh.
- ❖ Official tours abroad in connection with employment in Bangladesh shall not be regarded as employment outside Bangladesh.
- ❖ A person may be resident of more than one country for any income year.
- ❖ Citizenship of a country and residential status of that country are two separate concepts. A person may be a Bangladeshi national/Citizen but may not be a resident in Bangladesh and vice versa.



[Residential status determination flowchart for individuals]

b) Residential Status of HUF, Firm and AOP:

According to Section 2(55)(b) of the ITO 1984, a Hindu undivided family, firm or other association of persons, will be a resident if the control and management of those affairs is situated wholly or partly in Bangladesh in that year. However, if the control and management are situated wholly outside Bangladesh, they will be treated as non-resident.

c) Residential Status of Company:

According to Section 2(55)(c) of the ITO 1984, a Bangladeshi company or any other company, the control and management of whose affairs is situated wholly in Bangladesh in that year will be considered as resident. If the control and management of a company is situated partly or wholly outside Bangladesh, it will be considered as non-resident.

3.3.2.3 Residential Status Determination: Summary of Rules

Category	Rules to be a Resident	Rules to be a Non-resident
Individual	Assessee is in Bangladesh in the income year for a period of –	If none of these two basic conditions are fulfilled

	<i>Basic condition 1: 182 days or more; Or Basic condition 2: 90 days or more and 365 days or more during 4 years immediately preceding the income year.</i>	
HUF, AOP & Firm	If the control and management is situated wholly or partly in Bangladesh in the income year	If the control and management is situated wholly outside Bangladesh in the income year
Company	If the control and management is situated wholly in Bangladesh in the income year.	If the control and management is situated wholly or partly outside Bangladesh in the income year.

Note: The term “control and management” refers to “head and brain” which directs the affairs of policy, finance, disposal of profits and vital things concerning the management of the entity. While in the case of a firm, control and management is vested in partners, in case of an AOP it is vested in principal officer and in case of a company it is situated at the place where meetings of its board of directors are held.

3.3.2.4 Effects of Residential Status in Assessing Income:

Determination of residential status of an assessee has a significant bearing on the tax liability as incidence of income tax varies according to the residential status of an assessee as per Section 17 of the ITO, 1984. Therefore, the scope of total income varies according to the residential status of an assessee. These provisions may be summarized as under:

Particulars of income	Status of the income	To be taxed or not	
		Resident	Non-resident
Income received or deemed to be received in Bangladesh	Bangladeshi income	Taxable	Taxable
Income accrued or arose or deemed to accrue or arise in Bangladesh	Bangladeshi income	Taxable	Taxable
Income accrued or arose outside Bangladesh	Foreign income	Taxable	Non-taxable

An analysis of the above provisions would highlight the following:

- Any income which is either received in Bangladesh or deemed to be received in Bangladesh is taxable in Bangladesh, irrespective of the residential status.
- Any income which is either earned in Bangladesh or is deemed to be earned in Bangladesh is taxable in Bangladesh, irrespective of the residential status.
- For a resident in Bangladesh all global income (local + foreign), wherever earned/received is taxable in Bangladesh.
- For a non-resident, an income is taxable only if it is either earned in Bangladesh or it is received in Bangladesh.

3.3.2.5 Incidence of Tax on Non-Resident:

- A person who is a non-resident is liable to tax on the incomes, profits and gains which are received or deemed to have been received or are deemed to accrue or arise to him in Bangladesh;
- A non-resident assessee is not entitled to any sort of allowance and relief as are admissible to a resident assessee for the purpose of tax rebate;

- c. A non-resident assessee (other than Bangladeshi non-resident / foreigner) is liable to tax on his total income @ 30%.
- d. A Bangladeshi non-resident is subject to tax at normal rate, like a resident assessee.

SELF REVIEW 3 – 3

- (a) State any two characteristics of residential status of an assessee.
- (b) How do you determine residential status of a company?
- (c) What rate of tax is applicable for resident and non-resident assessee?

DETERMINATION OF THE RESIDENTIAL STATUS

Illustration 3 – 1:

Mr. Jalil, an Indian citizen, stayed in Bangladesh from 1st August, 2016 to 31st December, 2016 and left for London. What will be his residential status in the income year 2016-17?

Solution 3 – 1:

Mr. Jalil is a non-resident foreigner since his stay in Bangladesh during income year 2016-17 is $[31+30+31+30+31] = 153$ days which is less than required 182 days.

Illustration 3 – 2:

Mr. Hasan, a Bangladeshi citizen, stayed in Bangladesh from 1st July, 2016 to 31st December, 2016 and left for Japan. What will be his residential status in the income year 2016-17?

Solution 3 – 2:

Mr. Hasan is a resident since his stay in Bangladesh during 2016-17 is $[31+31+30+31+30+31] = 184$ days which is more than required 182 days.

Illustration 3 – 3:

Mr. Mannan stayed in Bangladesh from 1st September, 2016 to 31st December, 2016 and left for Trinidad. He came back on 1st May 2017 and still staying in Bangladesh. What will be his residential status in the income year 2016-17?

Solution 3 – 3:

Mr. Mannan is a resident since his stay in Bangladesh during 2016 $[30+31+30+31] = 122$ days and in 2017 from 1st May to 30th June $[31+30] = 61$ days. In total he stayed for $[122+61] = 183$ days in the income year 2016-17 which is more than required 182 days.

Illustration 3 – 4:

Arman Hossain, who was born and brought up in India, stayed in Bangladesh for business purpose during 01.06.2016 to 31.08.2016 and 01.04.2017 to 31.07.2017. Find out his residential status for the income year 2016-17.

Solution 3 – 4:

Condition – 1	Condition – 2	Residential Status
Days of staying in BD during income year 2016-17 (01.07.16 to 30.06.17)	Days of staying in BD during four years preceding to income year 2016-17	
July 16 – 31 days, August 16 – 31 days, April 17 – 30 days, May 17 – 31 days, and June 17 – 30 days $(31 + 31 + 30 + 31 + 30) = 153$ days	June 16: 30 days	Non-resident foreigner, as none of the condition is valid

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Illustration 3 – 5:

Jafor Hossain, who was born and brought up in India, stayed in Bangladesh for business purpose during 01.06.2016 to 30.09.2016 and 01.04.2017 to 31.07.2017. Find out his residential status for the income year 2016-17.

Solution 3 – 5:

Condition – 1	Condition – 2	Residential Status
Days of staying in BD during income year 2016-17 (01.07.16 to 30.06.17)	Days of staying in BD during four years preceding to income year 2016-17	
July 16 – 31 days, August 16 – 31 days, September 16 – 30 days, April 17 – 30 days, May 17 – 31 days, June 17 – 30 days (31 + 31 + 30 + 30 + 31 + 30) = 183 days	Not required, as Condition 1 is valid	Resident, as condition 1 is valid

Illustration 3 – 6:

Belal Hossain, who was born and brought up in Bangladesh, stayed outside Bangladesh for business purpose during 01.06.2016 to 31.08.2016 and 01.04.2017 to 31.07.2017. Find out his residential status for the income year 2016-17.

Solution 3 – 6:

Condition – 1	Condition – 2	Residential Status
Days of staying in BD during income year 2016-17 (01.07.16 to 30.06.17)	Days of staying in BD during four years preceding to income year 2016-17	
September 16 – 30 days, October 16 – 31 days, November 16 – 30 days, December 16 – 31 days, January 17 – 31 days, February 17 – 28 days, March 17 – 31 days (30+31+30+31+31+28+31) = 212 days	Not required, as Condition 1 is valid	Resident, as condition 1 is valid

Illustration 3 – 7:

Abir Hossain, who was born and brought up in Bangladesh, stayed outside Bangladesh for business purpose during 01.06.2016 to 31.08.2016 and 01.03.2017 to 31.07.2017. Find out his residential status for the income year 2016-17.

Solution 3 – 7:

Condition – 1	Condition – 2	Residential Status
Days of staying in BD during income year 2016-17 (01.07.16 to 30.06.17)	Days of staying in BD during four years preceding to income year 2016-17	
September 16 – 30 days, October 16 – 31, November 16 – 30, December 16 – 31, January 17 – 31, February 17 – 28 days (30+31+30+31+31+28) = 181 days	2015-16: 366 days, 2014-15: 365 days, 2013-14: 365 days, 2012-13: 365 days Total = 1,461 days	Resident, as condition II is valid

Illustration 3 – 8:

Mr. Harry K. Thomas, a citizen of USA, has been staying in Bangladesh since 1st January, 2013. He left Bangladesh on 16th July, 2016 on a visit to USA and returns on 1st March, 2017. What will be his residential status in the income year 2016-17?

Solution 3 – 8:

His stay (days) in Bangladesh during the income year 2016-17 is:

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Month	July '16	Mar '17	April '17	May '17	June '17	Total
Days	16	31	30	31	30	138

His stay (days) in preceding 4 income years:

Year	2015 – 16	2014 – 15	2013 – 14	2012 – 13	Total
Days	366	365	365	181 [1.01.13 ÷ 30.06.13]	1,277

As his staying was more than 90 days in the income year 2016 - 17 and more than 365 days in the preceding 4 years, he is a resident.

Illustration 3 – 9:

Ricky Ponting, an Australian cricketer visits Bangladesh for 100 days every year since 2011 - 12:

- Determine his residential status for the income year 2016-17.
- Will your answer be different if he has been coming to Bangladesh for 90 days instead of 100 days every year?

Solution 3 – 9:

- He is a resident as he stayed in Bangladesh for 100 days (more than required 90 days) in the income year 2016-17 and 400 days (100×4) (more than required 365 days) in the preceding 4 income years i.e. 2012-13, 2013-14, 2014-15 and 2015-16.
- Yes. He will, in this case, be a non-resident foreigner as he stayed in Bangladesh for 90 days (equal to required 90 days) in the income year 2016-17 but 360 days (90×4) (less than required 365 days) in the preceding 4 income years i.e. 2012-13, 2013-14, 2014-15 and 2015-16. He doesn't fulfill any of the required conditions.

Illustration 3 – 10:

Selina Akter, a Bangladeshi citizen, for the first time left Bangladesh for higher studies on October 01, 2012. For celebrating the eid, she came to Bangladesh on October 12, 2013 and stayed for 90 days; again, she came to Bangladesh in her brother's marriage ceremony on August 15, 2014 and stayed for 68 days. She also stayed in Bangladesh for 115 days from September 17, 2015 in Bangladesh for research purpose. Finally after completing her studies she came to Dhaka on April 01, 2017. Determine her residential status for the income year 2016-17.

Solution 3 – 10:

Condition – 1	Condition – 2	Residential Status
Days of staying in BD during income year 2016-17 (01.07.16 to 30.06.17)	Days of staying in BD during four years preceding to income year 2016-17	
April 17 – 30 days, May 17 – 31 days, June 17 – 30 days; total $(30+31+30) = 91$ days	2015-16 : 115 days, 2014-15 : 68 days, 2013-14: 90 days, 2012-13: $(31+31+30+1)=93$ days $(115+68+90+93) = 366$ days	Resident, as condition 2 is valid

Illustration 3 – 11:

Mr. Alex, a Canadian citizen, comes to Bangladesh for the first time during the income year 2012-13. During the income years 2012-13, 2013-14, 2014-15, 2015-16 and 2016-17, he was in Bangladesh for 55 days, 60 days, 90 days, 150 days and 100 days respectively. Determine his residential status for the income year 2016-17.

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Solution 3 – 11:

He is a non-resident foreigner as he stayed in Bangladesh for 100 days (more than required 90 days) in the income year 2016-17 and $(55+60+90+150) = 355$ days (less than required 365 days) in the preceding 4 income years i.e. 2012-13, 2013-14, 2014-15 and 2015-16.

Illustration 3 – 12:

Mr. Tanzi, a Japanese citizen, left Bangladesh after a stay of 10 years on 01.09.2014. During the financial year 2015-16, he came to Bangladesh for 46 days. Later, he returns to Bangladesh for one year on 01.02.2017. Determine his residential status for the income year 2016-17.

Solution 3 – 12:

During the income year 2016-17, Mr. Tanzi was in Bangladesh for $(28+31+30+31+30) = 150$ days. His staying in preceding 4 income years:

Year	2015 – 16	2014 – 15	2013 – 14	2012 – 13	Total
Days	46	63	365	365	839
[1.07.14 – 1.09.14]					

Since second condition is fulfilled, he is a resident.

Illustration 3 – 13:

Hanshi Tanaka, a Japanese citizen, left Bangladesh on 27.09.2016 after a stay of 10 years for Business purpose. What will be his residential status for the income year 2016-17?

Solution 3 – 13:

Condition – 1	Condition – 2	Residential Status
Days of staying in BD during income year 2016-17 (01.07.16 to 30.06.17)	Days of staying in BD during four years preceding to income year 2015-16	
July 16 – 31 days, August 16 – 31 days, September 16 – 27 days $(31+31+27) = 89$ days	2015-16 : 366 days, 2014-15 : 365 days, 2013-14: 365 days, 2012-13: 365 days $(366+365+365+365) = 1461$ days	Non-resident foreigner, as none of the condition is valid

Illustration 3 – 14:

Mr. X, a Bangladeshi citizen, left Bangladesh on 22.12.2016 for the first time, to work as an official in World Bank, Washington office. Determine his residential status for the income year 2016-17.

Solution 3 – 14:

He is a resident as he stayed in Bangladesh for $(31+31+30+31+30+22) = 175$ days (more than required 90 days) in the income year 2016-17 and $(366+365+365+365) = 1,461$ days (more than required 365 days) in the preceding 4 income years i.e. 2012-13, 2013-14, 2014-15, and 2015-16.

Illustration 3 – 15:

Mr. Hasan left Bangladesh on 20th August, 2015 for employment on a work permit valid for two years, i.e. from 1st August, 2015 to 31st July, 2017. Mr. Hasan did not come to Bangladesh at any time during the year 2015 and 2016. He finally came to Bangladesh on 10th January, 2017 and did not go back. Determine his residential status for the income year 2016-17.

Solution 3 – 15:

Total number of stay in Bangladesh:

2016-17 (From 10th January, 2017 to 30th June, 2017) = $[22+28+31+30+31+30] = 172$ days.

2015-16 (From 1st July, 2015 to 20th August, 2015) = $[31+20] = 51$ days.

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2014-15 (From 1st July, 2014 to 30th June, 2015) = 365 days

2013-14 (From 1st July, 2013 to 30th June, 2014) = 365 days

2012-13 (From 1st July, 2012 to 30th June, 2013) = 365 days

Hasan is a resident since he fulfills the second condition. His staying in Bangladesh during the income year 2016-17 is 172 days which is more than required 90 days in that year, and $172 + 365 + 365 + 365 = 1,146$ days during previous four years which is more than required 365 days.

Illustration 3 – 16:

Following are the particulars of Mr. Bablu's stay in Bangladesh over a period of last five years:

Year	2012 – 13	2013 – 14	2014 – 15	2015 – 16	2016 – 17
Days	40	55	182	200	94

Required:

- Determine his residential status for the income year 2016-17.
- What will happen if he stays for (i) 85 days in the year 2016-17? (ii) 80 days in the year 2015-16? (iii) 185 days in the year 2016-17 and total 360 days during last four years?

Solution 3 – 16:

- Mr. Bablu is a resident since he fulfills the second condition. His stay in Bangladesh during income year 2016-17 is 94 days which is more than required 90 days in that year, and $[40+55+182+200] = 477$ days during previous four years which is more than required 365 days.
- Mr. Bablu is a non-resident since he doesn't fulfill any of the conditions. His stay in Bangladesh during income year 2016-17 is 85 days which is less than required 90 days in that year, and although $[40+55+182+200] = 477$ days during previous four years which is more than required 365 days.
 - Mr. Bablu is a non-resident since he doesn't fulfill any of the conditions. His stay in Bangladesh during income year 2016-17 is 94 days which is more than required 90 days in that year, but $[40+55+182+80] = 357$ days during previous four years which is less than the required 365 days.
 - Mr. Bablu is a resident since he fulfills the first condition. His stay in Bangladesh during income year 2015-16 is 185 days which is more than required 182 days of the first condition.

Illustration 3 – 17:

Determine the residential status of Veronica Deliveries which is a Partnership Firm and whose

- control and management of those affairs is situated wholly in Bangladesh.
- control and management of those affairs is situated partly in Bangladesh.
- control and management of those affairs is situated wholly in outside Bangladesh.

Solution 3 – 17:

- Resident; since control and management of those affairs is situated wholly in Bangladesh.
- Resident; since control and management of those affairs is situated partly in Bangladesh.
- Non-resident; since control and management is situated wholly in outside Bangladesh.

Illustration 3 – 18:

Determine the residential status of DBL which is a Banking company in Bangladesh and whose

- control and management of those affairs is situated wholly in Bangladesh.
- control and management of those affairs is situated partly in Bangladesh.
- control and management of those affairs is situated wholly in outside Bangladesh.

Solution 3 – 18:

- (a) Resident; since control and management of those affairs is situated wholly in Bangladesh.
 (b) Non-resident; since control and management is situated partly in outside Bangladesh.
 (c) Non-resident; since control and management is situated wholly in outside Bangladesh.

Illustration 3 – 19:

Dr. Hasan Mahmood works as a professor in a university in Australia. He left Bangladesh in 2002. After 7 years of that, he first visited Bangladesh in the year 2009. After wards he visited Bangladesh every year to see his parents. The following table is providing the information about the time period he stayed in Bangladesh in different years from 2009 to 2017. Determine his residential status during these income years:

Year	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Date of entrance	16.09.10	12.10.11	11.02.13	09.12.13	01.07.14	28.12.15	15.07.16
Date of exit	28.03.11	19.03.12	14.03.13	01.03.14	28.09.14	28.06.16	12.03.17

Solution 3 – 19:

Year	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Date of entrance	16.09.10	12.10.11	11.02.13	09.12.13	01.07.14	28.12.15	15.07.16
Date of exit	28.03.11	19.03.12	14.03.13	01.03.14	28.09.14	28.06.16	12.03.17
Days of staying in current I/Y	15+31+ 30+31+ 31+28+ 28 = 194	20+30+ 31+31+ 29+19 = 160	19+14 = 33	23+31+ 28+1 = 83	31+31 +28 = 90	4+31+ 29+31+ 30+31 +28 = 184	17+31+ 30+31+ 30+31+ 31+28 +12 = 241
Days of staying in previous 4 years	0	194	194+160 = 354	194+160 +33 = 387	194+160 +33+83 = 470	160+33+ 83+90 = 366	33+83+ 90+184 = 390
Test passed	I	N/A	N/A	N/A	II	I & II	I & II
Residential Status	Resident	Non-resident	Non-resident	Non-resident	Resident	Resident	Resident

Test – I: The assessee stays in Bangladesh for a period of, or for periods amounting in all to, one hundred and eighty-two [182] days or more in that year;
Test – II: The assessee stays for a period of, or periods amounting in all to, ninety days [90] or more in that year having previously been in Bangladesh for a period of, or periods amounting in all to, three hundred and sixty-five days [365] or more during four years preceding that year.

Illustration 3 – 20:

Mr. Jalal has earned income from various sources in the income year 2016 – 17 which are: Salary income earned and payable in Bangladesh Tk. 100,000; Profit of Tk. 40,000 from a business in London has been brought in Bangladesh. The business has been managed and controlled from London; Profit of Tk. 60,000 from a business in Singapore has not yet been brought in Bangladesh.

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The Business has been managed and controlled wholly from Singapore; and Fees for professional services of Tk. 70,000 for a consultancy in Dubai has not yet been brought in Bangladesh.

Compute total income of Mr. Jalal, assuming that he is a (a) Resident (b) Non-resident.

Solution 3 – 20:

Mr. Jalal		
Income year: 2016 – 2017		
Assessment year: 2017 – 2018		
Computation of Total Income (Taka)		
	Resident	Non-resident
1. Income earned in Bangladesh: Salary Income	100,000	100,000
2. Foreign income: Profit of business in London	40,000	-
Profit of business in Singapore	60,000	-
Fees from consultancy service in Dubai	70,000	-
Total income	<u>270,000</u>	<u>100,000</u>

Illustration 3 – 21:

Particulars of income of Mr. Jalil for the income year 2016-17 includes: Rent from a property in Dhaka received in India Tk. 40,000; Income from a business in USA controlled from Bangladesh Tk. 150,000; Income from a business in Dhaka controlled from Pakistan Tk. 180,000; Rent from a property in Canada received there but subsequently remitted to Bangladesh Tk. 60,000; Interest from deposits with a Bangladeshi bank received in Canada Tk. 20,000 and Gifts received from his parents Tk. 45,000. Compute total income of Mr. Jalil for the income year 2016 – 2017 assuming that he is a (a) Resident (b) Non-resident.

Solution 3 – 21:

Mr. Jalil		
Income year: 2016 – 17		
Assessment year: 2017 – 18		
Computation of Total Income (Taka)		
	Resident	Non-resident
1. Income earned / deemed to accrue / arise in Bangladesh:		
Rent from property in Bangladesh	40,000	40,000
Income from business in USA controlled from Bangladesh	150,000	150,000
Income from business in Dhaka controlled from Pakistan	180,000	180,000
Interest from deposits	20,000	20,000
2. Foreign income: Rent from property in Canada	60,000	-
Total income	<u>450,000</u>	<u>390,000</u>

Note: Gifts received from parents is not regarded as income.

Illustration 3 – 22:

Particulars of income of Mr. Tareq for the income year 2016-17 includes: Salary income received in Bangladesh for services rendered in Afghanistan Tk. 40,000; Income from profession in Bangladesh, but received in Nepal Tk. 150,000; Property income in South Africa (out of which Tk. 180,000 was remitted to Bangladesh) Tk. 180,000; Profits earned from business in Chittagong Tk.

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60,000; and Agricultural income in Bhutan Tk. 20,000. Compute total income of Mr. Tareq for the income year 2016 – 2017 assuming that he is a (a) Resident (b) Non-resident.

Solution 3 – 22:

Mr. Tareq Income year: 2016 – 2017 Assessment year: 2017 – 2018 Computation of Total Income (Taka)		
	<u>Resident</u>	<u>Non-resident</u>
1. Income earned / deemed to accrue / arise in Bangladesh:		
Salary income received for services rendered in Afghanistan	40,000	40,000
Income from profession in Bangladesh, but received in Nepal	150,000	150,000
Profits earned from business in Chittagong Interest	60,000	60,000
2. Foreign income: Property income in South Africa	180,000	-
Agricultural income in Bhutan	20,000	-
Total income	<u>450,000</u>	<u>250,000</u>

3.4 COMPUTATION OF TOTAL INCOME [SECTION 43]

According to Section 43 of the ITO, 1984 the following provisions are to be followed to compute the total income of an assessee for charging income tax on it:

1. For the purpose of charge of tax, the total income of an assessee shall be computed in the manner provided in this Ordinance.
2. In computing the total income of an assessee, there shall be included any exemption or allowance specified in part B of the Sixth Schedule and any income deemed to be the income of the assessee under Section 19, subject to the limits, conditions and qualifications laid down therein.
3. Where the assessee is a partner of a firm, then, whether the firm has made a profit or a loss, his share (whether a net profit or a net loss) shall be taken to be any salary, interest, commission or other remuneration payable to him by the firm in respect of the income year increased or decreased respectively by his share in the balance the profit or loss of the firm after the deduction of any interest, salary, commission or other remuneration payable to any partner in respect of the income year and such share shall be included in his total income:

Provided that if his share so computed is a loss, such loss may be set off or carried forward and set off in accordance with the provisions of section 42.

4. In computing the total income of any individual for the purpose of assessment, there shall be included –
 - (a) so much of the income of the spouse or minor child of such individual as arises, directly or indirectly,
 - i) from the membership of the spouse in a firm of which such individual is a partner;
 - ii) from the admission of the minor child to the benefits of partnership in a firm of which such individual is a partner;
 - iii) from assets transferred directly or indirectly to the spouse otherwise than by way of gift or for adequate consideration or in connection with an agreement to live apart; or

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- iv) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual otherwise than by way of gift or for adequate consideration; and
 - (b) so much of the income of any person or association of persons as arises from assets transferred, otherwise than by way of gift or for adequate consideration, to such person or association of persons by such individual for the benefit of the spouse or minor child or both.
5. All income arising to any person by virtue of a settlement or disposition whether revocable or not from assets remaining the property of the settlor or disponent, shall be deemed to be income of the settlor or disponent, and all income arising to any person by virtue of a revocable transfer of assets shall be deemed to be income of the transferor and shall be included in the total income of such person.
6. For the purpose of sub-section (5),--
- a) a settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the retransfer directly or indirectly of the income or assets to the settlor, disponent or transferor, or in any way gives the settlor, disponent or transferor a right to resume power directly over the income or assets;
 - b) the expression "settlement or disposition" shall include any disposition, trust, covenant, agreement or arrangement, and the expression 5 [settlor] or disponent, in relation to a settlement or disposition, shall include any person by whom the settlement or disposition was made.

3.5 CHARGE OF INCOME TAX: DEFINITION & BASIC PRINCIPLES

Income tax is a direct tax which is charged upon a person in respect of his taxable income. The chargeability of income tax means imposition of tax on the income earned in an income year, at the rate specified by the Parliament or proper authority, in an assessment year, in accordance with and subject to the provisions of the ITO, 1984. Chapter 4 of the ITO, 1984 provides the basis of charge of income tax. Section 16 reveals the following basic principles of charge of income tax:

1. Income tax shall be charged at the rate or rates prescribed by the Finance Act enacted every year by the Parliament.
2. The charge is on every person as stated in Section 2(46) i.e. an individual, a firm, an association of persons, a HUF, a trust, a fund, a local authority, a company, an entity and every other AJP.
3. The income, that is taxed, must pertain to income year and not to the assessment year.
4. The tax is charged, levied, paid and collected in accordance with and subject to the provisions of the ITO, 1984.
5. Where under the provisions of this Ordinance, income tax is to be deducted at source, or paid or collected in advance; it shall be deducted, paid and collected accordingly.
6. The income has to be brought under any of the heads of income under Section 20 and can be charged to tax only if it is so chargeable under the computing section corresponding to that head of income.

3.5.1 Exceptions of the Basic Principles of Charging Income Tax:

As we have discussed earlier, some basic principles are followed to charge tax on the taxable income of an assessee. But, in the following exceptions basic principles are not followed:

1. Section 16(3) states that notwithstanding anything contained in Section 16(1), income tax shall be charged at the rates specified in the Second Schedule in respect of-

- i) A non-resident person, not being a company.
 - ii) Any income classifiable under the head “Capital Gain”.
 - iii) Any income by way of winning from lotteries, cross-word puzzles, card games and other games of any sort or from gambling or betting.
2. As per general principles, income tax is charged on the income earned in an income year in the assessment year which is the subsequent year to the income year. In the following exceptional areas, income tax may also be charged in respect of a period other than the income year whenever desired:
- i) Income of discontinued business as per Section 89(2).
 - ii) Persons leaving Bangladesh as per Section 91(2)(b).
 - iii) Income of non-resident shipping companies as per Section 102(2).

3.6 CHARGE OF SURCHARGE [SECTION – 16A]

The government through Parliament may also charge surcharge on income in addition to income tax. The provisions regarding surcharge as per Section 16A are as follows:

1. Where any Act of Parliament enacts that a surcharge on income shall be charged for any assessment year at any rate or rates, such surcharge at that rate or those rates shall be charged for that year in respect of the total income of the income year or the income years, as the case may be, of every person;
2. All the provisions of this Ordinance relating to charge, assessment, deduction at source, payment in advance, collection, recovery and refund of income tax shall, so far as may be, apply to the charge, assessment, deduction at source, payment in advance, collection, recovery and refund of the surcharge.

As per the provisions of the Finance Act, 2017, for the assessment year 2017-18, **surcharge** will be applied on **Individual** assessee showing total **net worth** in Income Tax Return:

- ⇒ Upto Tk. 2.25 crore – @ 0%
- ⇒ More than Tk. 2.25 crore to Tk. 5 crore – @ 10% on income tax payable
- ⇒ More than Tk. 5 crore to Tk. 10 crore – @ 15% on income tax payable
- ⇒ More than Tk. 10 crore to Tk. 15 crore – @ 20% on income tax payable
- ⇒ More than Tk. 15 crore to Tk. 20 crore – @ 25% on income tax payable
- ⇒ More than Tk. 20 crore – @ 30% on income tax payable

[However, if net wealth amount exceeds Tk. 2.25 crore, minimum surcharge amount will be Tk. 3,000.]

Illustration – 1: Mr. Hasan has a total income of Tk. 1,250,000 and net wealth of Tk. 19,000,000. His tax liability on income stands at Tk. 135,000. In this case, his surcharge amount will be zero as the net wealth amount is less than Tk. 2.25 crore.

Illustration – 2: Mr. Hasan has a total income of Tk. 1,250,000 and net wealth of Tk. 26,000,000. His tax liability on income stands at Tk. 135,000. In this case, his surcharge amount will be $(135,000 \times 10\%) = \text{Tk. } 13,500$ and total liability of tax and surcharge will be $(135,000 + 13,500) = \text{Tk. } 148,500$.

Illustration – 3: Mr. Hasan has a total income of Tk. 1,250,000 and net wealth of Tk. 11,00,00,000. His tax liability on income stands at Tk. 135,000. In this case, his surcharge amount will be $(135,000 \times 20\%) = \text{Tk. } 27,000$ and total liability of tax and surcharge will be $(135,000 + 27,000) = \text{Tk. } 162,000$.

3.7 CHARGE OF ADDITIONAL TAX [SECTION – 16B]

Notwithstanding anything contained in any other provision of ITO, 1984, where any person employs or allows, without prior approval of the Board of Investment or any competent authority of the

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Government, as the case may be, any individual not being a Bangladeshi citizen to work at his business or profession at any time during the income year, such person shall be charged additional tax at the rate of **fifty per cent (50%)** of the tax payable on his income or **taka five lakh**, whichever is higher in addition to tax payable under this Ordinance.

3.8 CHARGE OF ADDITIONAL AMOUNT [SECTION – 16BB]

Where under the provisions of this Ordinance any interest, amount or any other sum, by whatever name called, is to be charged in addition to tax, it shall be charged, levied, paid and collected accordingly.

3.9 CHARGE OF MINIMUM TAX [SECTION – 16BBB & 82C]

According to Section - 16BBB, where under the provisions of this Ordinance any minimum tax is to be charged, it shall be charged, levied, paid and collected accordingly. Notwithstanding anything contained in any other provisions of this Ordinance, minimum tax shall be payable by an assessee in accordance with the provisions of section 82C of the ITO, 1984. The provisions are as follows:

3.9.1 Where minimum tax will be applicable? [Section 82C(2)]

- (1) Any tax deducted or collected at source under the provisions of sections 52, 52A, 52AAA, 52B, 52C, 52D, 52JJ, 52N, 52O, 52R, 53, 53AA, 53B, 53BB, 53BBB, 53BBBB, 53C, 53CCC, 53DDD, 53E, 53EE, 53F, 53FF, 53G, 53GG, 53H, 53M, 53N and 55 shall be the minimum tax on income from the source or sources from which tax has been deducted or collected.

Provided that the tax deducted or collected from the following sources shall not be the minimum tax:

- (i) Tax collected under section 52 from the following persons-
 - (a) a contractor of an oil company or a subcontractor to the contractor of an oil company as may be prescribed;
 - (b) an oil marketing company and its dealer or agent excluding petrol pump station;
 - (c) any company engaged in oil refinery;
 - (d) any company engaged in gas transmission or gas distribution;
 - (ii) tax deducted under section 53 from import of goods by an industrial undertaking as raw materials for its own consumption;
 - (iii) tax deducted under section 53F from a source other than the sources mentioned in clause (c) of sub-section (1) and sub-section (2) of that section;
- (2) for the sources of income for which minimum tax is applicable, books of accounts shall be maintained in the regular manner in accordance with the provisions of section 35;
 - (3) income from any source, for which minimum tax is applicable under this sub-section, shall be determined in regular manner and tax shall be calculated by using applicable rate on such income. If the tax so calculated is higher than the minimum tax under clause (a), the higher amount shall be payable on such income:

Provided that income shall be determined and tax shall be calculated for certain sources in the manner as specified in the following -

Sources of income as mentioned in	Amount that will be taken as income	Rate or amount of tax
Section 52C	amount of compensation as mentioned in section 52C	as mentioned in section 52C (2% or 1% as the case may be)
Section 52D	amount of interest as mentioned in section 52D	as mentioned in section 52D (5% as the case may be)
Section 53DDD	amount of export cash subsidy as mentioned in section 53DDD	as mentioned in section 53DDD (3% as the case may be)
Section 53F(1)(c) and (2)	amount of interest as mentioned in section 53F	As mentioned in section 53F (10%, 15% or 5% as the case may be)
Section 53H	Deed value as mentioned in section 53H	As mentioned in section 53H and the rule made thereunder.

- (4) income or loss computed in accordance with clause (d) or the proviso of clause (d) shall not be set off with loss or income, respectively, computed for any regular source.

3.9.2 Assessee having income from regular source in addition to the income from source or sources for which minimum tax is applicable [Section 82C(3)]

Where the assessee has income from regular source in addition to the income from source or sources for which minimum tax is applicable under section 82C(2)-

- regular tax shall be calculated on the income from regular source;
- the tax liability of the assessee shall be the aggregate of the tax as determined under sub-section (2) and the regular tax under clause (a).

3.9.3 Minimum tax for firm or companies [Section 82C(4)]

- every firm having gross receipts of more than taka fifty lakh or every company shall, irrespective of its profits or loss in an assessment year, for any reason whatsoever, including the sustaining of a loss, the setting off of a loss of earlier year or years or the claiming of allowances or deductions (including depreciation) allowed under this Ordinance, be liable to pay minimum tax in respect of an assessment year at the following rate:

Classes of assessee	Rate of minimum tax
Manufacturer of cigarette, bidi, chewing tobacco, smokeless tobacco or any other tobacco products	1% of the gross receipts
Mobile phone operator	0.75% of the gross receipts
Any other cases	0.60% of the gross receipts

Provided that such rate of tax shall be zero point one zero percent (0.10%) of such receipts for an industrial undertaking engaged in manufacturing of goods for the first three income years since commencement of its commercial production.

- where the assessee has an income from any source that is exempted from tax or is subject to a reduced tax rate, the gross receipts from such source or sources shall be shown separately, and the minimum tax under this sub-section shall be calculated in the following manner-
 - minimum tax for receipts from sources that are subject to regular tax rate shall be calculated by applying the rate mentioned in clause (a);

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- (ii) minimum tax for receipts from sources that enjoys tax exemption or reduced tax rate shall be calculated by applying the rate mentioned in clause (a) as reduced in proportion to the exemption of tax or the reduction of rate of tax;
- (iii) minimum tax under this sub-section shall be the aggregate of the amounts calculated under sub-clauses (i) and (ii).

Explanation - For the purposes of this sub-section, 'gross receipts' means-

- (i) all receipts derived from the sale of goods;
- (ii) all fees or charges for rendering services or giving benefits including commissions or discounts;
- (iii) all receipts derived from any heads of income.

3.9.4 Points to be noted while charging the minimum tax [Section 82C(5-9)]

- (i) Where the provisions of both sub-section (2) and sub-section (4) apply to an assessee, minimum tax payable by the assessee shall be the **higher** of (a) the minimum tax under sub-section (2); or (b) the minimum tax under sub-section (4).
- (ii) Minimum tax under this section shall not be refunded, nor shall be adjusted against refund due for earlier year or years or refund due for the assessment year from any source.
- (iii) Where any surcharge, additional interest, additional amount etc. is payable under provisions of this Ordinance, it shall be payable in addition to the minimum tax.
- (iv) Where the regular tax calculated for any assessment year is higher than the minimum tax under this section, regular tax shall be payable.
- (v) In this section-
 - (a) "regular source" means any source for which minimum tax is not applicable under sub-section (2);
 - (b) "regular tax" means the tax calculated on regular income using the regular manner;
 - (c) "regular tax rate" means the rate of tax, that would be applicable if the tax exemption or the reduced rate were not granted."

Illustration – 1: X Ltd is a Private Limited Co. registered in Bangladesh involved in manufacturing cigarette. During the assessment year 2017-18, its total assessed income is Tk. 1,500,000 consisting net operating income of Tk. 1,250,000 and interest income of Tk. 250,000. If sales revenue/turnover is Tk. 20,000,000 and income tax rate is 35%, calculate income tax liability.

Income tax @ regular rate i.e. 35% $(1,500,000 \times 35\%) = \text{Tk. } 525,000$.

Gross receipts of the company: $(\text{Tk. } 20,000,000 + \text{Tk. } 250,000) = \text{Tk. } 20,250,000$

Minimum tax amount = $(\text{Tk. } 20,250,000 \times 1\%) = \text{Tk. } 202,500$.

Since, the regular tax is greater than the minimum tax, the tax liability of X Ltd. will be Tk. 525,000.

Illustration – 2: Y Ltd is a Private Limited Co. registered in Bangladesh involved in noodles business. During the income year 2016-17, its-

Net operating income (loss) (Tk. 450,000)

Interest income Tk. 250,000

Total assessed income (loss) (Tk. 200,000)

Sales revenue / turnover Tk. 2,00,00,000. Income tax rate is 35%. Calculate income tax liability.

Income tax @ regular rate i.e. 35% is Nil, since there is net loss.

Gross receipts of the company: $(\text{Tk. } 20,000,000 + \text{Tk. } 250,000) = \text{Tk. } 20,250,000$

Minimum tax amount = $(\text{Tk. } 20,250,000 \times 0.60\%) = \text{Tk. } 121,500$.

Since the minimum tax is greater than the regular tax, the tax liability of X Ltd. will be Tk. 121,500.

3.10 TAX RATES

There is a provision of the Finance Bill being presented to the Parliament by the Finance Minister along with the Budget every year. It contains the rates of income tax for the assessment year. A few amendments in the tax laws are also incorporated therein and when it is passed in the parliament it is known as the Finance Act. According to Finance Act 2017, the rate structure being presented here in respect of the assessment year 2017 – 2018 is:

1. **Tax rates applicable for every individual including Bangladeshi Non-residents, HUF, Firm, AOP and every other artificial judicial persons:**

Income slab	Rate
On the first Tk. 2,50,000 of total income	Nil
On the next Tk. 4,00,000 of total income	10%
On the next Tk. 5,00,000 of total income	15%
On the next Tk. 6,00,000 of total income	20%
On the next Tk. 30,00,000 of total income	25%
On the balance of Total income	30%

Notes:

- a) The minimum non-assessable income limit will be Tk. 300,000 for women, and elderly citizens being more than 65 years of age. For disable persons the minimum non-assessable income limit will be Tk. 400,000 and for gazetted wounded freedom fighters (whose name is included in the gazette of Ministry of Liberation War Affairs-MLWA/SRO-3/Freedom Fighters/Gazette/2003/479 dated 04/09/2003) Tk. 425,000. The minimum non-assessable income limit of the parents or legal guardian of a disable person will be Tk. 25,000 more. If both the father and mother of a disable person are taxpayer, any one (not both) will enjoy the benefit.
- b) However, the minimum tax would be Tk. 5,000 (Dhaka North, Dhaka South & Chittagong City corporation area); Tk. 4,000 (Other City corporation area) and Tk. 3,000 (Other than City corporation area).
- c) Minimum tax of a firm having gross receipts of above **taka fifty lakh** irrespective of earning profit or incurring loss is **0.30% of gross receipt** as per section 16CCC.
- d) If the assessee is an owner of any small and cottage industry or engaged in such kind of activities in a NBR specified less developed/least developed area, he/she will be eligible to have a tax rebate on such income: If production/turnover increases by more than 15% but less than 25% comparing to previous year, 5% rebate on tax applicable on such income will be allowed; If it increases by more than 25% than previous year, 10% rebate on tax applicable on such income will be allowed;
- e) **Individual** assessee having net wealth exceeding Tk. **2.25 crore** as per wealth statement is liable to pay **surcharge** as per the Finance Act, 2017, for the assessment year 2017-18. **Surcharge** will be applied on **Individual** assessee as per following rate:

Upto Tk. 2.25 crore	– @ 0%
More than Tk. 2.25 crore to Tk. 5 crore	– @ 10% on income tax payable
More than Tk. 5 crore to Tk. 10 crore	– @ 15% on income tax payable
More than Tk. 10 crore to Tk. 15 crore	– @ 20% on income tax payable
More than Tk. 15 crore to Tk. 20 crore	– @ 25% on income tax payable
More than Tk. 20 crore	– @ 30% on income tax payable

[However, if net wealth amount exceeds Tk. 2.25 crore, minimum surcharge amount will be Tk. 3,000.]

2. Tax rates applicable for Companies:

Nature of Company	Rates
i) For companies being a publicly traded company and other than banks, insurance, other financial institutions, merchant bank, cigarette manufacturing companies and mobile phone operator companies: Provided that, if a non publicly traded company transfers at least 20% of its paid up capital through Initial Public Offerings (IPO), the company will get tax rebate @10% of the income tax in the year of transfer i.e. tax rate will be 24.75% .	25%
ii) For company not being publicly traded company and other than banks, insurance, other financial institutions, merchant bank, cigarette manufacturing companies and mobile phone operators companies	35%
iii) For Bank, Insurance company and financial institutions:	
Publicly traded	40%
Non-publicly traded	42.5%
approved by the government on 2013	40%
iv) For Merchant banks	37.5%
v) For Cigarettes, bidi, chewing tobacco, smokeless tobacco or any other tobacco products Manufacturing Companies	45%
vi) In case of Mobile Phone Operators, not being publicly traded company	45%
vii) In case of Mobile Phone Operator Companies, being publicly traded company by issuing minimum 10% of its total shares through stock exchanges (of which issuance through Pre Initial Public Offering Placement cannot be more than 5%) If a non publicly mobile phone operator company transfers at least 20% of its paid up capital through Initial Public Offerings (IPO), the company will get tax rebate @10% of the income tax in the year of transfer i.e. tax rate will be 36% in the year of transfer.	40%
viii) For dividend income or repatriation of profit by foreign company	20%
ix) Non-resident foreigner (individual)	30%
x) Income from Cigarette, bidi, chewing tobacco, smokeless tobacco etc. business by Cigarette Manufacturer other than company	45%
xi) Co-operative Societies, registered under the Co-operative Societies Act, 2001	15%

Note: (a) The “publicly traded company” means a public limited company which is registered in Bangladesh under the Companies Act 1913 or 1994 and the shares of which are listed in a stock exchange in Bangladesh before the end of the year for which assessment is to be made. (b) However, minimum tax of a company irrespective of earning profit or incurring loss is **0.60% to 1% of gross receipt, as the case may be**, as per section 82C; provided that such rate of tax shall be 0.10% of such receipts for an industrial undertaking engaged in manufacturing of goods for the first three income years since commencement of its commercial production.

3. **Tax rate applicable for an individual Non-resident Foreigner:** In the case of an individual non-resident assessee (other than Bangladeshi non-resident); i.e. Non-resident foreigner, the rate of tax would be the maximum rate applicable in the country i.e. 30%.

4. **Surcharge on net wealth exceeding Tk. 2.25 crore:** Any individual assessee having net wealth exceeding Tk. 2.25 crore as per the Statement of assets, liabilities and expenses, is liable to pay surcharge @ following rate: As per the provisions of the Finance Act, 2017, for the assessment year 2017-18, surcharge will be applied on Individual assessee showing total net worth in Income Tax Return:

Upto Tk. 2.25 crore	– @ 0%
More than Tk. 2.25 crore to Tk. 5 crore	– @ 10% on income tax payable
More than Tk. 5 crore to Tk. 10 crore	– @ 15% on income tax payable
More than Tk. 10 crore to Tk. 15 crore	– @ 20% on income tax payable
More than Tk. 15 crore to Tk. 20 crore	– @ 25% on income tax payable
More than Tk. 20 crore	– @ 30% on income tax payable

[However, if net wealth amount exceeds Tk. 2.25 crore, minimum surcharge amount will be Tk. 3,000.]

Illustrative examples of surcharge calculation under different circumstances:

Details	(1)	(2)	(3)	(4)	(5)	(6)
Net asset of the assessee	1,90,00,000	2,30,00,000	9,00,00,000	10,50,00,000	16,14,00,000	22,00,00,000
Total Income (TI)	10,90,000	10,90,000	10,90,000	10,90,000	10,90,000	10,90,000
Gross Tax on TI	106,000	106,000	106,000	106,000	106,000	106,000
Tax rebate on Inv. All	Nil	Nil	Nil	Nil	Nil	20,000
Net Tax Payable (NT)	106,000	106,000	106,000	106,000	106,000	86,000
TDS	Nil	Nil	Nil	Nil	Nil	75,000
Tax to be paid	106,000	106,000	106,000	106,000	106,000	11,000
Applicable surcharge (NT × % of surcharge)	N/A	10,600	15,900	21,200	26,500	25,800
		[@10%]	[@15%]	[@20%]	[@25%]	[@30%]

5. **Reduced tax rate on agro-firm incomes etc.** [SRO No. 199-AIN/IT/2015 dated 01/07/2015]: Any income from production of pelleted poultry feed, production of pelleted feed for fish, shrimp & cattle, production of seeds, marketing of locally produced seeds, cattle farming, dairy farming, frog farming, horticulture, Silk tree plantation, Bee keeping, Silk worm firming, mushroom farming, floriculture is taxable at a reduced tax rate as follows:

Income	Tax Rate
On first Tk. 10 lac	3%
On next Tk. 20 lac	10%
For the rest of the amount	15%

6. **Reduced tax rate on Poultry Firm** [SRO No. 254-AIN/IT/2015 dated 16/08/2015]: Income from poultry firm will be taxed at following rate:

Income	Tax Rate
On first Tk. 20 lac	nil
On next Tk. 10 lac	5%
For the rest of the amount	10%

7. **Reduced tax rate on income from Poultry, Shrimp & fish hatchery, fisheries Firm** [SRO No. 255-AIN/IT/2015 dated 16/08/2015]:

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Income	Tax Rate
On first Tk. 10 lac	nil
On next Tk. 10 lac	5%
For the rest of the amount	10%

8. Reduced tax rates applicable for certain industrial companies:

Industries	Rate
1. On export income of jute industries for assessment years 2016-17 to 2019-20 [As per SRO No. 205-AIN/IT/2016 dated 29/06/2016]	10%
2. Textile and Yarn manufacturing related companies registered under the Company Act, 1994 for a period from July 01, 2015 to June, 30, 2019 [As per SRO No. 193-AIN/IT/2015 dated 01/07/2015]	15%
3. On export income of Nit ware and Oven Garments manufacturer and exporters for assessment year 2017-18 [As per SRO No. 255-AIN/IT/2017 dated 01/08/2017]; <i>Having green building certification the tax rate will be 10%.</i>	12%

9. Tax rates in respect of Capital Gains:

Income tax shall be charged on capital gains at the rates specified in the Second Schedule of the ITO, 1984. The provisions are as follows:

- (a) In the case of a company-
 - (i) tax payable on the total income as reduced by the said income had such reduced income been the total income; plus
 - (ii) tax at the rate of **fifteen per cent** on the whole amount of the said income;
- (b) In case of a person other than a company-
 - (i) where the said income arises as a result of disposal by the assessee of his capital assets after not more than five years from the date of their acquisition by him, tax payable on the total income including the said income; and
 - (ii) where the said income arises from disposal by the assessee of his capital assets after five years from the date of their acquisition by him, tax payable on the capital gains at the rate applicable to his total income including the said capital gains, or tax at the rate of **fifteen per cent** on the amount of the capital gains whichever is the lower.

10. Tax rate for income from Winnings etc.:

If the total income of an assessee includes any income by way of winning from lotteries, cross-word puzzles, card games and other games of any sort or from gambling or betting under the head "Income from other sources", the tax payable by him on the said income shall be at the rate applicable to his total income including the said income or at the rate of **twenty percent**, whichever is lower.

11. Tax rate applicable for charging of additional tax:

Additional tax at the rate of 50% of the tax payable on income or Tk. 5 lac whichever is higher, for the person employing foreigners without prior approval of the concerned authority. The details have been explained earlier under the title **Charge of Additional Tax [Section – 16B]**.

Rate applicable for national level Research Institute established under the Trust Act, 1882 or Societies Registration Act, 1860 [SRO No. 163-AIN/IT/2014 dated 29/06/2014]: 15%, effective from 1st July, 2014.

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13. **Tax rate applicable for private universities approved by the UGC [SRO No. 268-AIN/IT/2010 dated 01.07.2010]:** 15%, tax rate is applicable for the income of private universities, private medical college, dental college, engineering college and the private college or universities imparting only information technology. Public universities will remain exempted from tax.
14. **Tax rate applicable for public utility providers and income from public service activities of the NBR approved local authorities [SRO No. 158-AIN/IT/2014 dated 26.06.2014 later revised by SRO No. 197-AIN/IT/2015 dated 30.06.2015 and SRO No. 207-AIN/IT/2017 dated 21.06.2017]:** 25% on all income except capital gains. The organizations are: Dhaka WASA, Chittagong WASA, Khulna WASA, Rajshahi WASA, Civil Aviation Authority Bangladesh, RAJUK, Rajshahi Development Authority, Khulna Development Authority, Chittagong Development Authority, National Housing Authority, Chittagong Port Authority, Mongla Port Authority, Paira Port Authority, Bangladesh Inland Port Authority, Bangladesh Television, Bangladesh Betar, BIWTA, BTRC, BPDB, BRDB, BWDB, BEPZ Authority, Jamuna Bridge Authority, Borendro Multipurpose Development Authority (Rajshahi), Bangladesh Hi-Tech Park Authority, Insurance Development & Regulatory Authority Bangladesh, Sustainable & Renewable Energy Development Authority (SREDA) and Bangladesh Economic Zone Authority.
15. **Tax rate applicable for Private Power Generation Companies:** Private Power Generation Companies (Except Coal Based Electricity Generation Company) Starting operation within June 30, 2013 [SRO No. 235-AIN/IT/2011 dated 06.07.2011]; Private Power Generation Companies (Except Coal Based Electricity Generation Company) Starting operation within June 30, 2019 [SRO No. 211-AIN/IT/2013 dated 01.07.2013 later revised by SRO No. 354-AIN/IT/2013 dated 18.11.2013 & SRO No. 246-AIN/IT/2016 dated 26.07.2016] and Private Coal Based Electricity Generation Companies signing the contract within June 30, 2020 and starting operation within June 30, 2023 [SRO No. 213-AIN/IT/2013 dated 01.07.2013] will be *exempted from income tax* in case of:
- ❖ Income of the company, for 15 years from the day of starting the operation.
 - ❖ Income of foreign nationals working in such company, for 3 years from the day of their entry to Bangladesh.
 - ❖ Due interest on foreign loans taken by the company.
 - ❖ On payable amount of Royalties, Technical Know-how and Technical Assistance Fees by the company.
 - ❖ Capital gain arisen from the transfer the company's shares.

Private Power Generation Companies (Except Coal Based Electricity Generation Company) starting operation on or after January 01, 2015 [SRO No. 212-AIN/IT/2013 dated 01.07.2013 later revised by SRO No. 355-AIN/IT/2013 dated 18.11.2013] will enjoy tax holiday facility for the next 10 years from the date of starting the operation on or after July 01, 2016 as per the following rates [SRO No. 212-AIN/IT/2013 dated 01.07.2011 later revised by SRO No. 212-AIN/IT/2013 dated 01.07.2011]:

Period of Exemption	Rate of Exemption
For the first 5 years (1 st , 2 nd , 3 rd , 4 th & 5 th year)	100% of income
For the next 3 years (6 th , 7 th and 8 th year)	50% of income
For the last 2 year (9 th and 10 th year)	25% of income

16. Advance tax applicable for the owners' of private motor car, Jeep or Microbus [Section 68B]: Every person owning a private motor car shall be deemed to have an income by which the motor car is maintained and shall pay advance income tax to be collected on the basis of the following rates at the time of registration or renewal of fitness:

Types of car (On the basis of cc)	Per car / jeep / microbus tax
(a) Motorcar or Jeep (upto 1,500 cc)	Tk. 15,000
(b) Motorcar or Jeep (1,501 cc to 2,000 cc)	30,000
(c) Motorcar or Jeep (2,001 cc to 2,500 cc)	50,000
(d) Motorcar or Jeep (2,501 cc to 3,000 cc)	75,000
(e) Motorcar or Jeep (3,001 cc to 3,500 cc)	100,000
(f) Motorcar or Jeep (Above 3,500 cc)	125,000
(g) Microbus	20,000

But for having more than one Motorcar/Jeep/Microbus under the single or joint ownership, in addition to above regular amount excess 50% income tax will be applied for second and onwards vehicle. The tax amount paid will be adjusted with the total amount of tax. This provision will not be applicable for the vehicles owned by:

- the government and the local government;
- a project, programme or activity under the government and the local government;
- a foreign diplomat, a diplomatic mission in Bangladesh, United Nations and its offices;
- a development partner of Bangladesh and its affiliated office or offices;
- an educational institution under the Monthly Payment Order of the Government;
- a public university;
- any entity that is not a person as defined under clause (46) of section (2) of this Ordinance;
- a gazetted war-wounded freedom fighter; or
- an institution that has obtained a certificate from the Board that advance tax shall not be collected from it.

17. Tax rate applicable for owners' of ship/vessel used for public transport, Cargo, Coaster and Dump barge [SRO No. 224-AIN/IT/2012 dated 27.06.2012 later some changes incorporated by SRO No. 162-AIN/IT/2014 dated 26.06.2014]: The income earned from ship/vessel (except oil-tanker) used for public transport, Cargo, Coaster and Dump barge will be exempted from tax subject to the payment of the following amount of taxes before the renewal of survey certificate:

	Tax rate	
	[from the date of registration]	
	Within 10 years	After 10 years
(a) Ship/ vessel used for inland water passenger service (On the basis of day service capacity)	@Tk. 100 per passenger	@Tk. 40 per passenger
(b) Cargo/Coaster used for inland water goods transport (On the basis of capacity to carry)	@Tk. 135 per gross tonnage	@Tk. 60 per gross tonnage
(c) Dump Barge used for inland water goods transport (On the basis of capacity to carry)	@Tk. 100 per gross tonnage	@Tk. 50 per gross tonnage

18. Special tax rate for ship making industry for 12 years effective from the date of the issuance of SRO [SRO No. 132-AIN/IT/2013 dated 28.05.2013]: Publicly traded ship making company 5% and non publicly traded ship making company 10% only on income earned from export business.
19. Special tax rate for organizations engaged in production of freezer, refrigerator, motorcycle and air conditioners for 12 years effective from the date of the issuance of SROs [SRO No. 186-AIN/IT/2009 dated 01.07.2009 later revised in SRO No. 78-AIN/IT/2010 dated 15.03.2010]: 5% from the date of the starting the production.
20. Income earned as Mutual Fund Management Fee by an Asset Management Company [SRO No. 362-AIN/IT/2013 dated 27.11.2013]: 15%
21. Tax rate applicable for owners' of bus, minibus, coaster, taxicab, primemover, truch, tanklorry, pickup, human hauler, maxi or auto rickshaws that carry goods [SRO No. 171-AIN/IT/2009 dated 30.06.2009 later some changes incorporated by SRO No. 267-AIN/IT/2010 dated 01.07.2010 & SRO No. 160-AIN/IT/2014 dated 26.06.2014]: The income from bus, minibus, coaster, taxicab, primemover, truch, tanklorry, pickup, human hauler, maxi or autorickshaws that carry goods is chargeable to income tax subject to the fulfillment of some conditions:

	Tax rate	
	[from the date of registration]	
	Within 10 years	After 10 years
(a) Bus having more than 52 seats	Tk. 12,500	Tk. 6,500
(b) Bus having 52 or less seats	9,000	4,500
(c) (i) Air-Conditioned Luxury Bus	30,000	15,000
(ii) Double Decker Bus	12,500	6,500
(d) Air-Conditioned minibus/coaster	12,500	9,000
(e) Other types of minibus/coaster	5,000	2,500
(f) Primemover used for carrying container	19,000	10,000
(g) Truck/Tank Lorry (capacity 5 ton or more)	12,500	7,500
(h) Truck/Tank Lorry (capacity more than 1.5 and less than 5 ton)	7,500	4,500
(i) Truck/Pick up (capacity less than 1.5 ton), all kind of human hauler, maxi, goods carrying auto rickshaws	3,000	2,500
(j) Air-Conditioned Taxi cab	9,000	4,500
(k) Taxi Cab without Air conditioned	3,000	1,500

3.11 SPECIAL TAX TREATMENT OF INVESTMENT IN THE PURCHASE OF RESIDENTIAL BUILDING AND APARTMENT [SEC- 19BBBBB]

Notwithstanding anything contained in this Ordinance, source of any sum invested by any person, in the construction or purchase of any residential building or apartment, shall be deemed to have been explained if the assessee pays, before the assessment for the relevant assessment year in which the investment is completed, tax at the following rate **per square meter**:

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Area where the Building & Apartment is situated	Plinth area 200 sq. meter	
	Does not exceed	Exceeds
Gasman Model Town, Banani, Baridhara, Motijheel Dhaka and Dalkusha C/A of Dhaka	Tk. 5,000	Tk. 7,000
Shamondi R/A, Defence Officers Housing Society (DOHS), Mahakhali, Lalmatia Housing Society, Gasman Model Town, Bashundhara Residential Area, Dhaka Cantonment, Karwan Bazar, Bijoy Nagar, Segunbagicha, Nikunja of Dhaka, and Panchlaish, Khulshi, Agrabad and Nasirabad area of Chittagong	Tk. 4,000	Tk. 5,000
In any City Corporation other than areas mentioned in above two clauses	Tk. 2,000	Tk. 3,000
In a Paurasabha of any district headquarters	Tk. 600	Tk. 800
In any area other than above four clauses	Tk. 400	Tk. 600

Notes:

- The rate mentioned above shall be **20% higher** in case where the assessee already owns a building or apartment in any City Corporation before such investment is completed; or the assessee makes such investment in two or more buildings or apartments.
- The above provision of shall not apply where the source of such investment is: (a) Derived from any criminal activities under any other law for the time being in force; or (b) Not derived from any legitimate source.

3.12 SPECIAL TAX TREATMENT FOR INCOME OF COMPANIES FORMED UNDER BANGLADESH PUBLIC-PRIVATE PARTNERSHIP ACT – 2015 (PPP COMPANIES) [SRO NO. 208-AIN/IT/2017 DATED 21.06.2017; SRO NO. 209-AIN/IT/2017 DATED 21.06.2017; SRO NO. 210-AIN/IT/2017 DATED 21.06.2017]

Under these SROs the beneficiary PPP Projects are, National Highways or Expressways and Related Service Roads, Flyovers, Elevated and At-Grade Expressways, River Bridges, Tunnels, River Port, Sea Port, Airport, Subway, Monorail, Railway, Bus Terminals, Bus Depots and Elderly Care Home. The SROs are effective from 1st July, 2017.

Following incomes of the certain PPP Project Companies will be exempted from income tax for **ten (10) years** effective from day of commencement of its operation subject to the fulfillment of certain conditions:

- These companies should have 12-digit TIN,
- They must maintain accounts u/s 35 and submit income tax return u/s 75.
 - Income from Business – 100%
 - Capital gain from transfer of raised share capital, and
 - Royalty, Technical know-how and Technical Assistance Fee paid for the project operation.

The foreign technicians will also avail 50% tax exemption for three (3) years after the expiry of 5 years of its operation. To avail the benefits, the foreign technicians should obtain 12-digit TIN, and submit income tax return u/s 75.

3.13 SPECIAL TAX RATES ON INCOME EARNED FROM SELLING STOCKS AND SHARES [SRO 196-AIN/IT/2015 DATED 30/06/2015]

1. The following reduced tax rates will be applicable on the income earned from transaction of securities (excluding government securities) listed in the Stock Exchanges:

Nature of Taxpayer's income	Tax rate
Any income earned from trading of shares/securities by any company U/S 2(20) and firm U/S 2(32)	10%
Any income earned from trading of shares/securities by any Sponsor Shareholder / Director of a Bank, Financial Institution, Merchant Bank, Insurance Company, Leasing Company, Portfolio Management Company, Stock Dealer or Stock Broker Company	5%
Any income earned from trading of shares/securities by any Shareholder [excluding the Sponsor Shareholders/Directors mentioned in above] having 10% or more shares of the total paid up capital of a company / companies listed at any time during the income year	5%

2. The income from trading of shares of all other types of taxpayers' excluding those mentioned in the above SRO, Sec. 53M and 53O of the ITO, 1984 is **exempted** from tax.
3. Here, the term "Securities" will include any stocks, shares, mutual fund units, bonds, debentures or other securities of any listed company tradable in the stock exchanges of the country (excluding the securities issued by the government).
4. This SRO is effective from July 01, 2015.

3.14 SPECIAL TAX REBATE FOR NEW MANUFACTURING INDUSTRIES ESTABLISHED IN OUTSIDE OF THE CITY CORPORATION AREAS [SRO No. 185-AIN/IT/2014 dated 01.07.2014]

A new manufacturing industry, established in any area of Bangladesh other than the areas within the jurisdiction of city corporations, will enjoy tax rebate according to the following provisions:

Conditions	Rate of Rebate
If commercial operation is started within 1 st July, 2014 to 30 th June, 2019; for 10 years from the date of commercial operation	20%
If any organization, whose commercial operation has already been started within the jurisdiction of city corporation area, shifts its operation wholly to any area outside of the city corporations within 1 st July, 2014 to 30 th June, 2019; for 10 years from the date of shift	20%
Any manufacturing industry whose commercial operation has been started, upto 30 th June, 2019.	10%

This SRO will be effective from July 01, 2014. The above rebate option will not be applicable for following manufacturing industries:

- (a) If the organization enjoys the tax holiday scheme, for the period availing the benefits under the tax holiday scheme.
- (b) If the income of the organization is exempted from tax, upto tax exemption period.
- (c) If the organization enjoys reduced rate of tax imposed by SRO under Section 44 of the ITO, 1984, for the period availing the reduced rate of tax.

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- (d) If it is listed in Stock Exchanges as publicly traded company.
- (e) If the organization is not certified with clearance from Environmental Department/Ministry.

3.15 VOLUNTARY DISCLOSURE OF INCOME AS PER SECTION – 19E

Notwithstanding anything contained in ITO, 1984 any person who has not been assessed to tax for the income year or years prior to all the income year relevant to the assessment year and he has not submitted return of income for those year or years, may disclose such income as income in the respective heads of income in his return of income for the assessment year or any subsequent assessment year. Moreover, this provision will also be applicable for any income that has escaped assessment in those assessments or the amount of income assessed is less than the actual income.

Return of income mentioned in sub-section (1) shall be treated as valid, if –

- (a) the assessee pays before the submission of return-
 - (i) tax payable at applicable rate on total income including such income under respective heads of income; and
 - (ii) penalty at the rate of ten percent of tax proportionate to such income under respective heads of income;
- (b) the return of income is submitted within the time specified in sub-section (5) of section 75; and
- (c) a declaration is enclosed with the return of income in respect of the following: name of the person declaring; head of the declared income and amount thereof; and amount of tax and penalty paid thereof.

The provision of this section shall not apply where-

- (a) a notice under section 93 has been issued before submission of such return of income for the reason that any income, assets or expenditure has been concealed or any income or a part thereof has escaped assessment;
- (b) a notice on a banking company under clause (f) of section 113 has been issued before submission of such return of income;
- (c) any proceeding under sections 164, 165 or 166 has been initiated before submission of such return of income;
- (d) any income declared under this section is-
 - (i) not derived from any legitimate source of income; or
 - (ii) derived from any criminal activities under any other law for the time being in force; or
- (e) any income declared under this section which is –
 - (i) exempted from tax in the concerned income year; or
 - (ii) chargeable to tax at a reduced rate in accordance with section 44 if ITO 1984.

Income shown under this section may be invested in any income generating activities or any sector including the following:

- (a) industrial undertaking including its expansion;
- (b) balancing, modernization, renovation and extension of an existing industry;
- (c) building or apartment or land;
- (d) securities listed with a Stock Exchange in Bangladesh; or
- (e) any trade, commercial, or industrial venture engaged in production of goods or services.

3.16 SPECIAL TAX RATES OF LEGALIZING THE INVESTMENT AT BUS, MINIBUS, COASTER, TRUCK ETC. WITHOUT RAISING ANY QUESTION

No question will be raised as to the source of purchase price if assessee pays tax @1,000% of tax to be paid per year per bus, minibus, coaster, truck etc. [SRO 223-AIN/IT/2011 dated 04.06. 11]

3.17 SPECIAL TAX EXEMPTION FOR COMPANIES IN ECONOMIC ZONES AND HITECH PARK:

Companies established in government declared economic zones under Bangladesh Economic Zone Act, 2010 (Act no 42 of 2010) & in government declared hitech park under Bangladesh Hi-Tech Park Authority Act, 2010 (Act no 8 of 2010), will enjoy exemption from paying income tax for 10 years as per following rates [SRO 226-AIN/IT/2015 dated 08.07. 15; SRO 228-AIN/IT/2015 dated 08.07. 15]:

Year	1, 2 & 3	4	5	6	7	8	9	10
Rate of Exemption from Income Tax	100%	80%	70%	60%	50%	40%	30%	20%

To enjoy such exemption, the companies have to →Take TIN; → Maintain accounts in proper manner u/s 35; and → Have to submit income tax return timely u/s 75.

3.18 SPECIAL TAX EXEMPTION FOR DEVELOPERS OF ECONOMIC ZONES AND HITECH PARK:

Developers appointed to develop government declared economic zones under Bangladesh Economic Zone Act, 2010 (Act no 42 of 2010) & government declared hitech park under Bangladesh Hi-Tech Park Authority Act, 2010 (Act no 8 of 2010), will enjoy exemption from paying income tax for 12 years from the commencement of their business as per following rates [SRO 227-AIN/IT/2015 dated 08.07. 15; SRO 229-AIN/IT/2015 dated 08.07. 15]:

Year	Rate of Exemption from Income Tax
1 to 10	100%
11	70%
12	30%

To enjoy such exemption, the companies have to:

- ❖ The developer must be a company u/s 2(20);
- ❖ Take TIN;
- ❖ Maintain accounts in proper manner u/s 35; and
- ❖ Have to submit income tax return timely u/s 75.

3.19 TAX PAYER'S IDENTIFICATION NUMBER (TIN) [SECTION 184B, RULE 64B & RULE 64BB]

As a part of Tax Reform Initiatives, Tax Payer's Identification Number (TIN) has been introduced by the Finance Act 1993, introducing a Section 184B in the ITO, 1984 and has taken into effect on July 1, 1994. According to which, every assessee or any person applies manually or electronically for TIN will be issued a certificate containing 12 digits TIN.

The application may be submitted electronically through the website hosted by NBR or manually in prescribed form to the DCT. Here, it is to be provided that TIN may be issued without any

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application where any income tax authority has found a person having taxable income during the year and has failed to apply before issuance of the said number. Board may, by general or special order in writing, direct any person who already holds a TIN to furnish such information or documents for the purpose of re-registration and thereafter issue a new twelve digit Taxpayer's Identification Number.

Every existing assessee having ten-digit Tax-payer's Identification Number or a Temporary Registration Number (TRN) shall have to obtain twelve-digit Tax-payer's Identification Number (TIN) before the last date of submission of return of income as required under section 75.

3.19.1 Requirement of TIN Certificate or acknowledgement receipt containing twelve-digit TIN of return of income in certain cases:

1. Notwithstanding anything contained in this Ordinance, a person shall be required to furnish a proof of holding twelve-digit Taxpayer's Identification Number in the cases mentioned in sub-section (3).
2. The proof of holding twelve-digit Taxpayer's Identification Number shall be a certificate issued by the Deputy Commissioner of Taxes or a system generated certificate authorized by the Board in this behalf or an acknowledgment receipt of return of income, if such certificate or acknowledgment receipt, as the case may be, contains the name and the twelve-digit Taxpayer's Identification Number of the person.
3. The proof of holding twelve-digit Taxpayer's Identification Number shall be furnished in the following cases as per Section 184A:
 - (i) Opening a letter of credit for the purpose of import.
 - (ii) Applying for an import registration certificate or export registration certificate.
 - (iii) Obtaining the issuance or renewal of a trade license in the area of a city corporation or paurashava.
 - (iv) submitting tender documents by a resident for the purpose of supply of goods, execution of a contract or rendering a service;
 - (v) Submitting application for the membership of a club registered under the Company Act, 1994.
 - (vi) Obtaining the issuance or renewal of license of or enlistment of a surveyor of general insurance.
 - (vii) Obtaining registration, by a resident, of the deed of transfer, baynanama or power of attorney of a land, building or an apartment situated within a city corporation or a paurashava of a district headquarter, where the deed value exceeds one lakh taka;
 - (viii) Obtaining registration, change of ownership or renewal of fitness of a bus, truck, prime mover, lorry etc., plying for hire;
 - (ix) Applying for a loan exceeding Tk. 500,000 from a bank or a financial institution.
 - (x) Obtaining a credit card.
 - (xi) obtaining the membership of the professional body as a doctor, dentist, lawyer, chartered accountant, cost and management accountant, engineer, architect or surveyor or any other similar profession.
 - (xii) Being a director or a sponsor shareholder of a company.

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- (xiii) Obtaining and retaining a license as a Nikah Registrar under the Muslim Marriages and Divorces (Registration) Act, 1974 (LII of 1974).
- (xiv) Obtaining or maintaining the membership of any trade or professional body.
- (xv) Submitting a plan for construction of building for the purpose of obtaining approval from Rajdhani Unnayan Kartipakkha (Rajuk), Chittagong Development Authority (CDA), Khulna Development Authority (KDA) and Rajshahi Development Authority or other concerned authority.
- (xvi) Obtaining or maintaining a drug license.
- (xvii) Obtaining or maintaining the commercial connection of gas.
- (xviii) Obtaining or maintaining the connection of electricity for commercial purpose in a city corporation, paurashava or cantonment board;
- (xix) Registration, change of ownership or renewal of fitness of a motor vehicle;
- (xx) Obtaining or maintaining a survey certificate of any water vessel including launch, steamer, fishing trawler, cargo, coaster and dump-burge etc., plying for hire;
- (xxi) Registration or renewal of agency certificate of an insurance company.
- (xxii) Obtaining the permission or the renewal of permission for the manufacture of bricks by Deputy Commissioner's office in a district or Directorate of Environment, as the case may be;
- (xxiii) Participating in any election in upazilla, paurasabha, city corporation or Jatiya Sangsad.
- (xxiv) Obtaining the admission of a child or a dependent in an English medium school, providing education under international curriculum, situated in any city corporation, district headquarter or paurasabha.
- (xxv) Receiving any payment which is an income of the payee classifiable under the head "Salaries" by an employee of the government or an authority, corporation, body or units of the government or formed by any law, order or instrument being in force, if the employee, at any time in the income year draws a basic salary of Tk. Sixteen thousand or more.
- (xxvi) Receiving any amount from the Government under the Monthly Payment Order (MPO) if the amount of payment exceeds taka sixteen thousand per month;
- (xxvii) Receiving any payment which is an income of the payee classifiable under the head "Salaries" by any person employed in the management or administrative function or in any supervisory position in the production function.
- (xxviii) Obtaining or maintaining the agency or the distributorship of a company;
- (xxix) Receiving any commission, fee or other sum in relation to money transfer through mobile banking or other electronic means or in relation to the recharge of mobile phone account;
- (xxx) Receiving any payment by a resident from a company against any advisory or consultancy service, catering service, event management service, supply of manpower or providing security service;
- (xxxi) Submitting a bill of entry for import into or export from Bangladesh.

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4. The Board may, by a general or special order, exempt any person from furnishing twelve-digit Taxpayer's Identification Number.
5. The person responsible for processing any application or nomination, approving any license, certificate, membership, permission, admission, agency or distributorship, sanctioning any loan, issuing any credit card, allowing connection, executing registration or making any payment shall not so process, approve, sanction, issue, allow, execute or make payment, as the case may be, unless the twelve-digit Taxpayer's Identification Number is furnished as required under the provision of sub-section (1) or the person who is required to furnish the proof of holding twelve-digit Taxpayer's Identification Number provides a certificate from the Board that he is exempted from furnishing such proof.
6. The person to whom the proof of holding twelve-digit Taxpayer's Identification Number is furnished shall verify the authenticity of it in the manner as may be specified by the Board."

3.20 TAX COLLECTION ACCOUNT NUMBER [SECTION 184BB]

Every person required to deduct or collect tax under Chapter VII (Payment of Tax before Assessment) of the ITO, 1984 shall be given a tax collection account number in such manner as may be prescribed.

3.21 UNIFIED TAXPAYER'S IDENTIFICATION NUMBER (UTIN)

To simplify the tax collection procedure, the concept of Unified Taxpayer's Identification Number (UTIN) has been introduced through the Finance Ordinance, 2007. As per Section 184BBB, an assessee having taxpayer's identification number (TIN) when registered with VAT authority and obtained a business identification number (BIN) shall be given a Unified Taxpayer's Identification Number (UTIN) in such manner as may be prescribed by the Board.

3.22 ISSUANCE OF TEMPORARY REGISTRATION NUMBER [SEC - 184BBBB]

Temporary Registration Number (TRN) may be given to a person who has been found having taxable income in any year and has failed to apply for TIN under section 184B.

3.23 DISPLAYING OF TIN CERTIFICATE [SECTION 184C]

An assessee having income from business or profession shall obtain twelve digit TIN Certificate from the DCT under whose jurisdiction he is being assessed and display such certificate at a conspicuous place of such assessee's business premises.

3.24 REWARDS TO OFFICERS AND EMPLOYEES OF THE BOARD AND ITS SUBORDINATE INCOME TAX OFFICES [SECTION 184D]

Notwithstanding anything contained in this Ordinance or any other law for the time being in force, the Board may, in such manner and in such circumstances and to such extent as may be prescribed, grant reward to the following persons (section – 184D):

- (a) an officer or employee of the Board and its subordinate tax offices for outstanding performance, collection of taxes and detection of tax evasion.
- (b) any other person for furnishing information leading to detection of tax evasion.

In addition to the reward mentioned above, The Board may also grant reward for collection of revenue in excess of the revenue target as may be prescribed.

3.25 TAX TO BE CALCULATED TO NEAREST TAKA (SECTION 175)

In the determination of the amount of tax or of a refund payable under this Ordinance, fractions of a taka, less than fifty poisha, shall be disregarded and fractions of a taka equal to or exceeding fifty poisha shall be regarded as one taka.

3.26 ORDINANCE TO OVERRIDE OTHER LAWS (SECTION 184F)

Notwithstanding anything contained in any other law for the time being in force, the provisions of this Ordinance or any proceedings thereunder shall prevail over any other law in respect of tax on income and exemptions of tax thereof.

KEY POINTS

1. Income tax is a tax on income
2. The rate of income tax is determined by the government in the National Assembly through the Finance Act.
3. Income tax ensures –
 - (a) revenue collection for government
 - (b) re-distribution of income
 - (c) increase in savings
 - (d) increase in capital investment
 - (e) economic development
4. The government of Bangladesh has taken various measures to modernize the tax system and imposed various provisions in the Income Tax Ordinance, 1984 through Tax Holiday Scheme, Investment Allowance, Accelerated Depreciation Allowance etc.
5. Accelerated Depreciation is allowed at the rate of
 - ⇒ 100% in first year for specified areas, and
 - ⇒ 80% in first and 20% in the second year for industries established in other areas.
6. Income tax encourage people to spend in certain social development program as spending in certain areas are exempted from tax payment like contribution to president's / prime minister's relief fund.
7. The Income Tax Ordinance, 1984 came into force on 1st July, 1984 as Income Tax Manual I. It has 23 Chapters, 187 sections, numerous sub-sections and seven schedules containing provisions regarding assessment, penalty, appeal etc.
8. NBR can issue certain circulars (SRO) regarding income tax as and when necessary.
9. Taxpayers can submit tax return under 'universal self-assessment' scheme.
10. The National Board of Revenue (NBR) under the Internal Resources Division of the Ministry of Finance is responsible for the collection of all taxes including income tax.

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Multiple choice questions:

1. If the assessment year is 2017 – 18, the income year is –
 - (a) 2014 – 2015
 - (b) 2017 – 2018
 - (c) 2016 – 2017
 - (d) decided by the authority
2. If the assessment year is 2017 – 18 and the assessee maintains his accounting record for the year ending on 30th June, 2017 the income year will be ending on –
 - (a) 31st December, 2016
 - (b) 30th June, 2015
 - (c) 31st December, 2017
 - (d) 30th June, 2017
3. Assessment year and Income year is same for –
 - (a) discontinued business
 - (b) Persons leaving Bangladesh
 - (c) non-resident shipping companies
 - (d) all of the above
4. Which of the following statement is false –
 - (a) Residential status may differ from year to year
 - (b) Residential status will not depend on the citizenship of the assessee
 - (c) Burden of proving the residential status lies with the assessee
 - (d) Residential status is always determined number of days assessee stay in the country in the assessment year
5. Which of the following issues can have different effect for a resident and non-resident Bangladeshi assessee –
 - (a) Determination of total income
 - (b) Minimum limit of taxable income
 - (c) Rate of tax
 - (d) Income tax rebate

Assess the residential status of the following assessee for the income year 2016 – 2017:

6. A Bangladeshi was outside Bangladesh from 25th October 2011. He visited Bangladesh during the income year on 6th December 2016 and stayed for three and a half months.
 - (a) Resident
 - (b) Non – resident Bangladeshi
 - (c) Non – resident foreigner
7. A foreigner visits Bangladesh for a consultancy contract and resides Bangladesh during the period 27th October to 15th February and 8th April to 20th June in the income year 2016 – 2017:
 - (a) Resident
 - (b) Non – resident Bangladeshi
 - (c) Non – resident foreigner
8. A foreigner visits Bangladesh for a 5 months period during the income year 2016 – 2017 and also he was in Bangladesh for a full year in the income year 2011 – 2012:
 - (a) Resident
 - (b) Non – resident Bangladeshi
 - (c) Non – resident foreigner

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9. A Bangladeshi was outside Bangladesh from 15th September 2016 to 1st June 2017.
 - (a) Resident
 - (b) Non – resident Bangladeshi
 - (c) Non – resident foreigner
10. A Bangladeshi was outside Bangladesh for a 9 months period during the income year 2016 – 2017.
 - (a) Resident
 - (b) Non – resident Bangladeshi
 - (c) Non – resident foreigner

Identify the following statements as either true (T) or false (F):

1. Residential status will not depend on the citizenship of the assessee.
2. Income year can be same as assessment year.
3. If an individual fails to stay 182 days in the income year, he will be considered as non resident.
4. Income accrued or arose outside Bangladesh is taxable for a non resident.
5. Residential status is determined for each income year.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 3 – 1:** Define Income Year and explain how to determine income year under different circumstances stated in Section – 2(35) of the ITO, 1984?
- Question 3 – 2:** Define Assessment Year and explain under what circumstances assessment year can be same as income year?
- Question 3 – 3:** State the importance of determining income year and assessment year.
- Question 3 – 4:** Define Assessee according to Section – 2(7) of the ITO, 1984.
- Question 3 – 5:** Classify assessee based on the residential status and explain why this classification is important in income tax determination?
- Question 3 – 6:** Explain the rules to determine the residential status of an individual and also of a company?
- Question 3 – 7:** “Income tax varies according to the residential status of an assessee” – explain.
- Question 3 – 8:** Write short note on:
 - (a) Income Year
 - (b) Assessment Year
 - (c) Assessee
 - (d) Residential status of an assessee

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Answers:

Multiple choice questions		True/False
1. c	6. b	1. T
2. d	7. a	2. T
3. d	8. c	3. F
4. d	9. a	4. F
5. a	10. a	5. T

Self review 3 – 1:

Income year is the period for which total income is calculated. Generally for the bank, insurance or financial institution Income year consists of a period covering January to December and for other taxpayers it is July to June.

In the case of a business newly set up in a financial year, the period of income year begins with the date of the setting up of the business and ends with the 30th day of June following the date of setting up of such business.

Self review 3 – 2:

	Income year	Assessment year
a.	2016-17	2017-18
b.	2016-17	2017-18
c.	2016-17	2016-17

Self review 3 – 3:

Characteristics of residential status:

1. Residential status may differ from year to year
2. Residential status will not depend on the citizenship of the assessee

Residential Status of Company: A Bangladeshi company or any other company, the control and management of whose affairs are situated wholly in Bangladesh in that year will be considered as resident. If the control and management of a company is situated partly or wholly outside Bangladesh, it will be considered as non-resident.

Tax rates: The average tax rate applicable for a resident assessee since tax is calculated using different tax rates (such as 10%, 15%, 20%, 25% & 30%) for a resident. But a non-resident has to pay tax at maximum rate i.e. @ 30%.

CHAPTER - 4

INCOME TAX AUTHORITY

● LEARNING OBJECTIVES ●

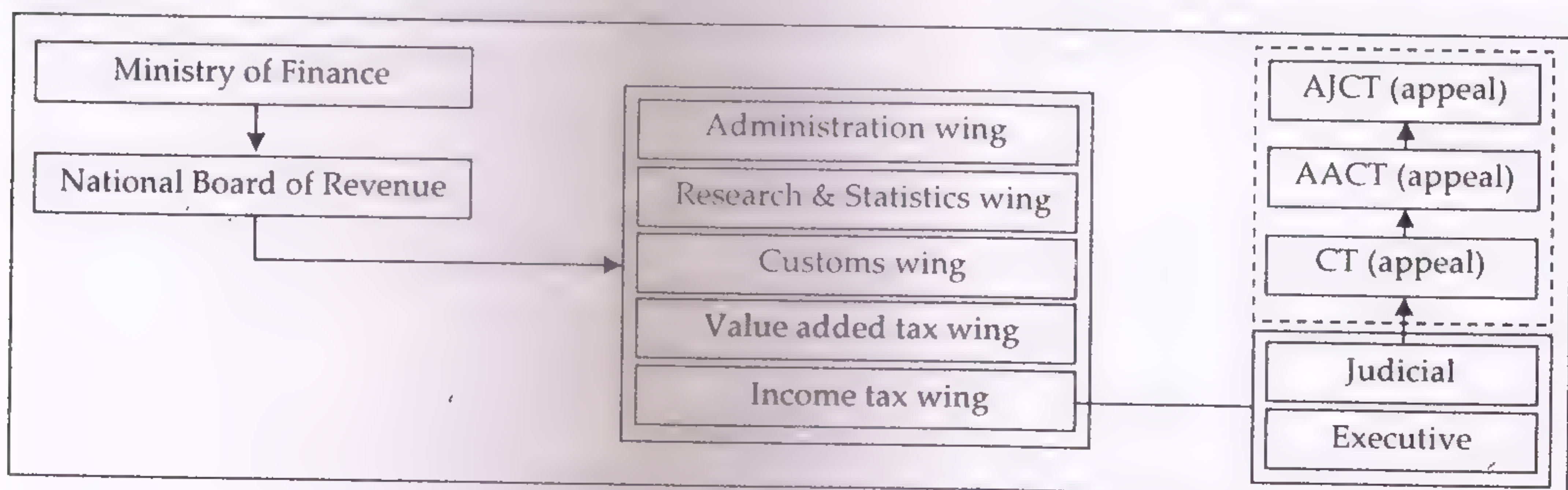
After studying Chapter 4, you shall be able to understand:

- ✦ different types of income tax authority
- ✦ appointment of different income tax authority
- ✦ subordination and control of income tax authorities
- ✦ power, functions and responsibilities of different administrative authorities
- ✦ power, functions and responsibilities of different judicial authorities
- ✦ role of Civil Courts regarding income tax

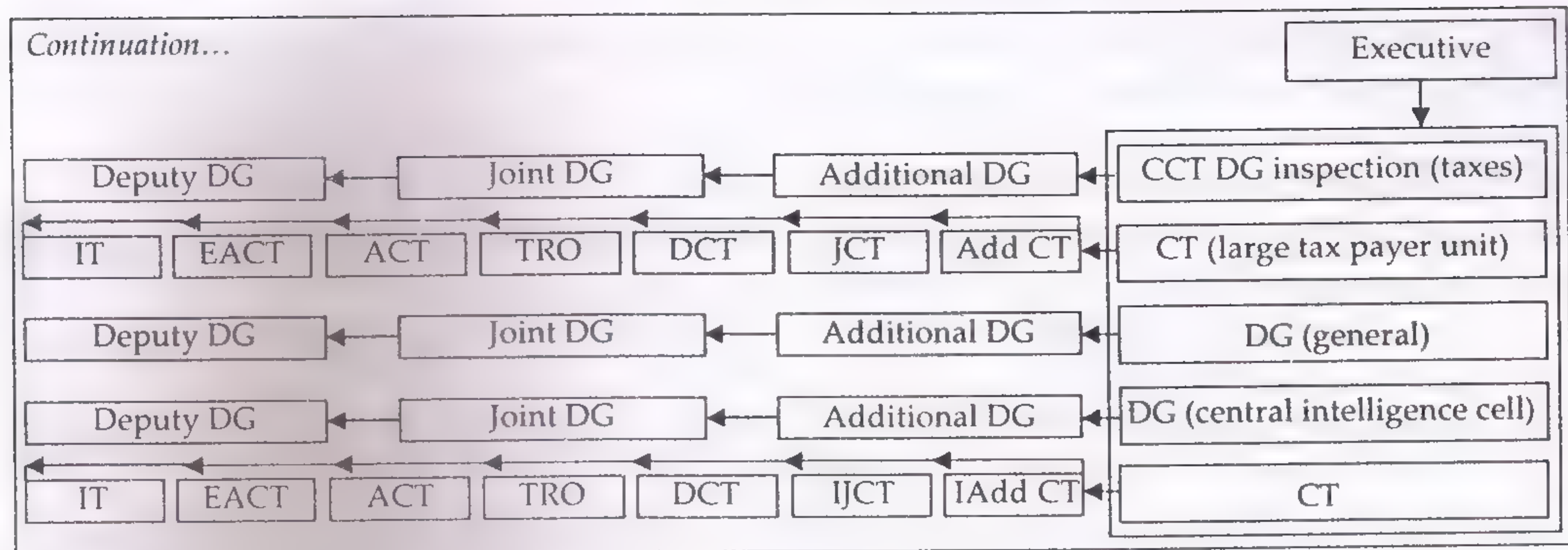
Income tax authorities hold the sole responsibility to execute the laws relating to income tax applicable in the land and to run various departments formed for streamlining the functions like identification of assessee; computation of taxable income, net tax liability; receiving application in this regard and appeal, listening to complains, hearings; even changing or amending or repealing various sections etc. To ensure efficient administration and to discharge executive and other appellate functions, certain necessary provisions are constituted in the ITO, 1984. Chapter II (Sections 3 - 10) of the IT Ordinance, 1984 deals with the appointment, power and responsibilities of various income tax authorities with their respective authority - responsibility relationships.

4.1 APPOINTMENT OF INCOME TAX AUTHORITIES

The National Board of Revenue (NBR) as the apex body enjoys the power to appoint income tax authorities in accordance with the provisions of the IT Ordinance, 1984 subject to the rules and orders of the government regulating the terms and conditions of service of persons in public services and posts. The board may appoint Chief Commissioner of Taxes, Direct General, Central Intelligence Cell, as many Directors-General of Inspection, Commissioners (Appeals), Commissioners, Joint Commissioners of Taxes, Deputy Commissioners of Taxes, Tax Recovery Officers and Assistant Commissioners of Taxes and such other executive or ministerial officers and staffs as it may think fit. [U/s 4(2)] The Board may also, with approval of the Government, appoint person(s) having appropriate professional experiences and skills as may be specified in the order issued on this behalf. Any other income tax authorities may also appoint income tax authority subordinate thereto subject to the orders and instructions as the board may issue from time to time.



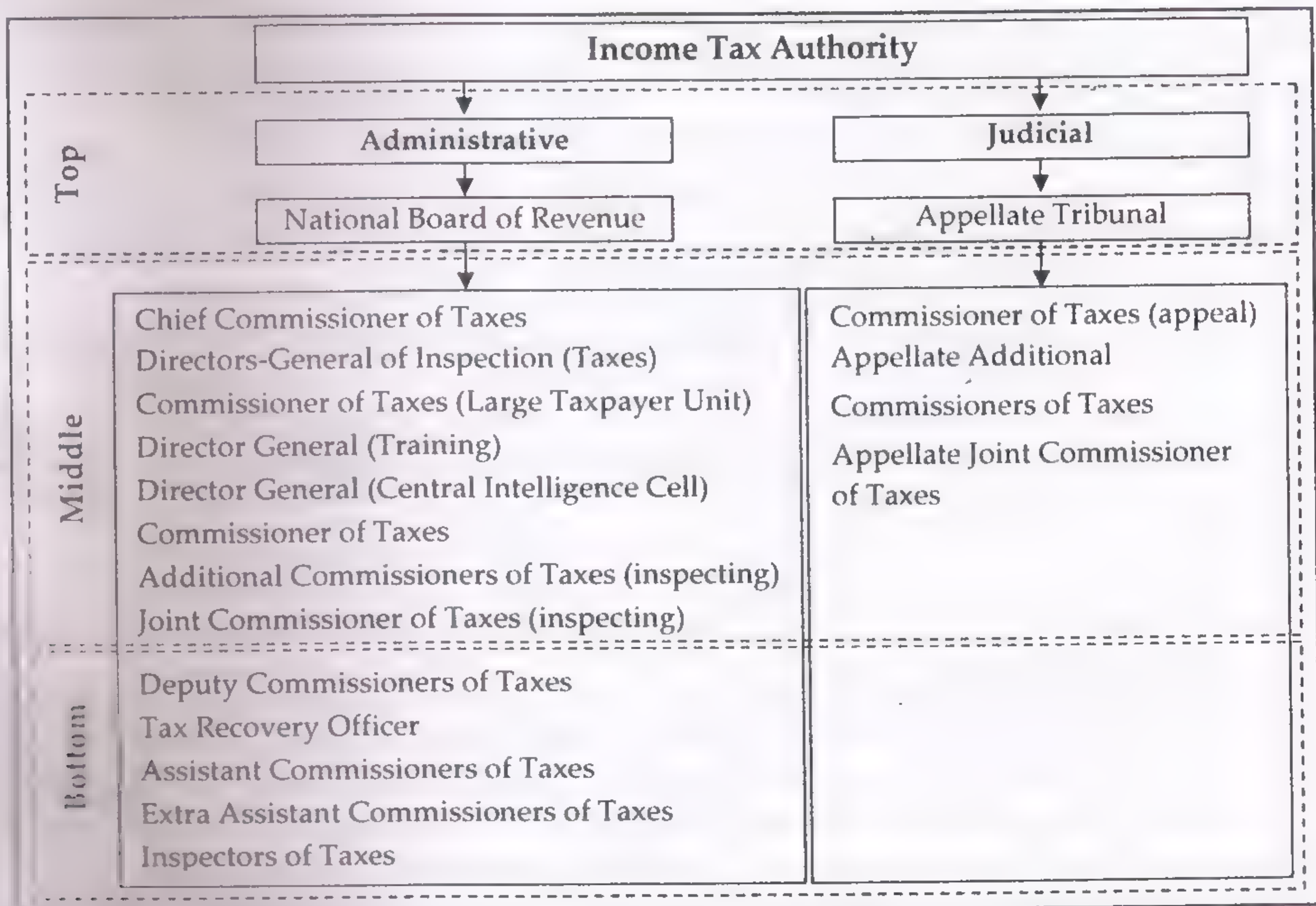
Chapter – 4: Income Tax Authority



DG	: Director General	AACT	: Appellate Additional Commissioner of Taxes
CT	: Commissioner of Taxes	AJCT	: Appellate Joint Commissioner of Taxes
DCT	: Deputy Commissioner of Taxes	Add CT	: Additional Commissioner of Taxes
JCT	: Joint Commissioner of Taxes	ACT	: Assistant Commissioner of Taxes
TRO	: Tax Recovery Officer	EACT	: Extra Assistant Commissioner of Taxes
IT	: Inspector of Taxes	IJCT	: Inspecting Joint Commissioner of Taxes
CCT	: Chief Commissioner of Taxes	IAddCT	: Inspecting Additional Commissioner of taxes

4.2 TYPES OF INCOME TAX AUTHORITIES

Income tax authorities may be classified into two major groups depending on their functions, namely, administrative and judicial.



4.3.1 Administrative: To look after the total administration of income tax wing starting from the identification of assesseees to the collection of taxes from them.

4.3.2 Judicial: To hear the claims of the aggrieved assesseees and to give them the verdict as early as possible.

These two authorities with office bearers are depicted in the above chart in order of their respective power, authorities and responsibilities:

4.3 DELEGATION OF POWERS (U/S 4A)

The Board may, by notification in the official Gazette, and subject to such limitations or conditions, if any, as may be specified therein, empower by name or designation, -

- (a) any Inspecting Additional Commissioner of Taxes to exercise the powers of a Commissioner of Taxes;
- (b) any Appellate Additional Commissioner of Taxes to exercise the powers of a Commissioner of Taxes (Appeal); and
- (c) any Additional Director General or Joint Director General of Central Intelligence Cell to exercise powers of Director General, Central Intelligence Cell.

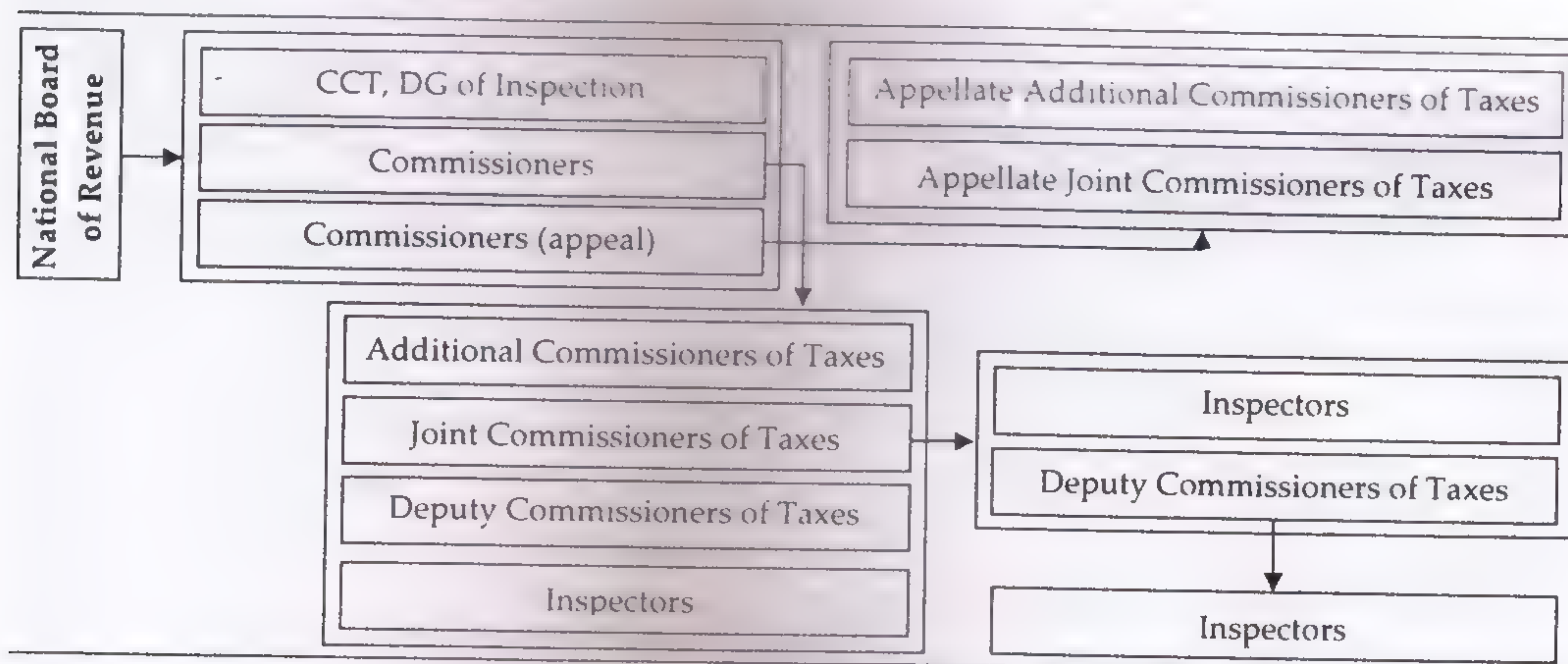
SELF REVIEW 4 – 1

(a) Define income tax authority.

(b) What is the basic objective to formulate administrative and judicial authority?

4.4 SUBORDINATION AND CONTROL OF IT AUTHORITIES (U/S 5)

Section 5 of the ITO, 1984 depicts the subordination and control of IT authorities for the purpose of smooth functioning of the administration. In the following chart the overall subordination and control of IT Authorities are depicted:



Thus, CCT, Directors-General of Inspection, Commissioners, Commissioners (Appeals) will be subordinate to the Board; Additional Commissioners of Taxes, Joint Commissioners of Taxes, Deputy Commissioners of Taxes and Inspectors will be subordinate to the Commissioners or Commissioners (Appeals); Deputy Commissioners of Taxes and Inspectors will be subordinate to the Inspecting Joint Commissioners of Taxes and Inspectors will be subordinate to the Deputy Commissioners of Taxes.

4.5 ADMINISTRATIVE AUTHORITIES: POWERS AND FUNCTIONS

Income tax authorities may be of two types; administrative and judicial. In this section, the powers, functions and responsibilities of administrative authorities are discussed.

Chapter – 4: Income Tax Authority

4.5.1 National Board of Revenue:

National Board of Revenue (NBR) has been constituted under the National Board of Revenue Order, 1972 [U/s 2(13)] and is given the highest executive authority under the under the Internal Resources Division (IRD) of the Ministry of Finance. NBR is responsible for formulation and continuous re-appraisal of tax-policies and tax-laws in Bangladesh. The NBR is empowered to make necessary rules concerning income tax matters but not authorized to give any interpretation of any word used in any section of IT ordinance (judiciary function). It is a body consisting of a chairman, members, officers and secretaries. The chairman and members are appointed by the Government and work under the direct control of the Ministry of Finance. Negotiating tax treaties with foreign governments and participating in inter-ministerial deliberations on economic issues having a bearing on fiscal policies and tax administration are also NBR's responsibilities. The main responsibility of NBR is to mobilize domestic resources through collection of Import Duties and Taxes, VAT and Income Tax for the Government. Side by side with collection of taxes, facilitation of international trade through quick clearance of import and export cargoes has also emerged as a key role of NBR. Other responsibilities include administration of matters related to taxes, duties and other revenue related fees/charges and Prevention of smuggling. Under the overall control of IRD, NBR administers the Excise, VAT, Customs and Income-Tax services consisting of 3434 officers of various grades and 10195 supporting staff positions.

Powers & Functions of NBR –

Sections	Powers and Functions
2(5A)	To give approval of gratuity fund in accordance with the provisions of Part C of the First Schedule.
2(6)	To give approval of superannuation fund or pension fund in accordance with the provisions of Part A of the First Schedule.
2(20)(c)	Power to declare any unincorporated foreign association or body to be a company by general or special order for the purpose of IT Ordinance.
2(35)(e)	Power to declare any such period determined as income year in the case of any person.
4	Power to appoint as many CCT, DGIs, Commissioners, Commissioners (Appeals), JCT, DCT, TRO, ACT and other executive or ministerial officers and staffs as it may think fit.
4A	To delegate powers of certain authorities by notification in the official gazette.
6	To determine the functions of the DG of Inspection, the Commissioners (appeals), the Appellate JCT, the Commissioner (LTU), the Inspecting Joint Commissioner and to determine the jurisdiction of income tax authorities.
8	Power to issue orders, directions, instructions from time to time for discharging the functions of all officers and other persons engaged in the performance of any functions under IT Ordinance.
9	To authorize any person for assisting, guiding or instructing the Deputy Commissioner of Taxes in the course of any proceedings under this ordinance.
35(2)	Power to prescribe any manner or form to keep accounts for any business or profession or for any other sources of income, to record payment of commercial transactions.

44, 45, 46A, 46B, 47	To allow allowances, tax exemption or tax holiday to approved industrial undertakings, physical infrastructure facilities, income of a tourist industry, and income of co-operative societies.
59	Direct to pay the amount deducted or collected as tax to the credit of the Government within specified time.
170	To compound offences.
173A	To determine place of assessment when jurisdiction of an assessee falls in more than one zone.
174	To set the qualification and disqualification criteria of persons to be authorized representative of an assessee.
184D	To reward an officer or employee of tax department or any other persons for furnishing information to detect tax evasion.
185	Power to make rules for carrying out the purposes of this ordinance.

4.5.1 Chief Commissioner of Taxes, Director-General of Inspection (Taxes):

‘Chief Commissioner of Taxes, Director-General of Inspection (Taxes)’ means a person appointed to be a Director-General of Inspection (Taxes) under Section 3, and except for the purpose of Section 117, includes a person appointed for the purpose of this Ordinance to be an Additional Director-General of Inspection (Taxes), a Deputy Director-General of Inspection (Taxes), or an Assistant Director-General of Inspection (Taxes) [U/s 2(25)]. He is appointed by the NBR and works under the direct supervision of NBR.

Powers & Functions of DGI (Taxes) –

Functions of CCT, DGI are made clear in section 6(1)(aa) through Finance Act, 1997. As per the section, the Directors-General of Inspection shall perform the following functions: -

- (i) Carry out inspection of income tax cases;
- (ii) Investigate or cause investigation to be carried out in respect of cases involving leakage of revenue or evasion of taxes;
- (iii) Carry out audit of cases of offices involving income tax cases only;
- (iv) Furnish annual report about the working of income tax offices dealing with revenue matters to the Board by the thirty first day of December following the end of the financial year to which it relates; and
- (v) Such other functions as may be assigned to them by the Board;

Special Power given in Chapter XIV of IT Ordinance (Section 116 & 117) –

- (i) The DGI enjoys the powers to make any inquiry or to require any such person to produce any accounts or documents that he may consider necessary [Section – 116].
- (ii) Under Section 116A, the DGI has the power of giving order for not removing property in necessary grounds.
- (iii) DGI can enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that any books of accounts, documents, money, bullion, jewellery or other valuable articles or things are kept and he also enjoys the power to seize any books of accounts, and other sources found from such search [Sec 117].

4.5.2 Powers & Functions of Chief Commissioner of Taxes Director General, Central Intelligence Cell (CIC):

As per Section 6(b)(aaa) the Director General of CIC shall perform the following functions:

- (i) Carry out intelligence works to gather information about tax payers;

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- (ii) Analyze information gathered through intelligence work vis-à-vis concerned income tax records;
- (iii) Detect tax evasions, concealments of income and offences;
- (iv) Carry out investigations to prove tax evasion or concealment or any other irregularities relating to tax and to collect evidences in support of tax offences or tax frauds for recovery of tax with penalty and to supersede prosecution in fit cases;
- (v) To carry out functions as authorized by any other law.

4.5.3 Commissioner of Taxes and Commissioner of Taxes (Large Taxpayer Unit):

‘Commissioner’ means a person appointed to be a Commissioner of Taxes or Commissioner (Large Taxpayer Unit) under Section 3, or a person appointed to hold current charge of a Commissioner of Taxes or Commissioner (Large Taxpayer Unit) [U/s 2(19)]. They are appointed by NBR on a territorial basis in most of the time and may enjoy the supreme power of their jurisdiction. They work as per the direction of NBR and holds liable for the functioning of the department headed by them.

Powers & Functions of Commissioners –

- (i) Power to call for information under Section 113: The Commissioner may require any firm, Hindu undivided family (HUF), person including a banking company, assessee, dealer, broker or agent to furnish any information in relation to such points or matters as may be specified in the notice.
- (ii) Additional powers of enquiry and production of documents under Section 116: The Commissioner may make any inquiry in respect of any person liable to assessment under this ordinance or to require any such person to produce any accounts or documents that he may consider necessary.
- (iii) Power of giving order for not removing property under Section 116A: The Commissioner may order for not removing property like any money, bullion, jewellery, financial instrument, financial asset, valuable article or any other property in necessary grounds.
- (iv) Power of search and seizure under Section 117: The commissioner exercises the power to enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that any books of accounts, electronic records and systems, documents, money, bullion, jewellery or other valuable articles or things are kept and he also enjoys the power to seize any books of accounts, extract the data from any such sources found as a result of such search.
- (v) Revisional power under Section 121A: Commissioner may on an application made by an assessee, with a fee of 200 taka and full payment of undisputed portion of tax, call for the record of any proceedings in which an order has been passed by any authority subordinate to him. He may make such enquiry and may also pass such order thereon within 60 days from the date of application, not being an order prejudicial to the assessee, as he thinks fit. The power he exercises under this section are judicial and quasi-judicial where the Board has no power to interfere but he is bound to give an opportunity of being heard to the assessee.
- (vi) Power to take evidence on Oath, etc. under Section 122: The Commissioner has the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of certain matters.
- (vii) Power for having reference from High Court Division under Section 160: The Commissioner can ask for a reference to the Supreme Court (High Court Division)

from an order of the Appellate Tribunal on appeal within 90 days from the date of receipt of such order, by application in prescribed form.

4.5.4 Additional Commissioner of Taxes (ACT):

ACT is subordinate to the Commissioner within whose jurisdiction he is appointed to perform his function [U/s 5(2)]. But the Board may also empower him to exercise the powers of a CT (U/s 4A). He is entrusted with the following responsibilities:

- (i) He provides necessary instructions to the JCT and the DCT.
- (ii) He can seize the books of accounts and other relevant documents of a defaulter assessee authorized by the Board.
- (iii) He may demand relevant information from the assessee by issuing notice

4.5.6 Joint Commissioner of Taxes (Inspecting):

They are appointed by the Board and work under the direct supervision of the Commissioner of Taxes within whose jurisdiction they perform their functions. Their main function is to supervise the work of the DCT tackling tax evasion under his jurisdiction. The Board may also direct them to exercise the power of the DCT. His other powers are:

- (i) He can demand required information by issuing a written notice as per Section 113.
- (ii) He can inspect any register of the members, debenture holders or mortgagees of any company or any entry in such register as per Section 114.
- (iii) He enjoys special power to conduct investigation and collection of relevant document as per Section 116.
- (iv) He has the power to revise any order of the DCT within four years as per Sec. 120.
- (v) He may accept appeal against a TRO works under his jurisdiction and give a final decision as per Section 157.
- (vi) Power of previous approval for imposing penalty by the DCT as per Sec 131.

4.5.7 Deputy Commissioner of Taxes (DCT):

According to Section 2(23) of the ITO, 1984, “Deputy Commissioner of Taxes” means a person appointed to be a Deputy Commissioner of Taxes under Section 3, and includes a person appointed to be an Assistant Commissioner of Taxes, an Extra Assistant Commissioner of Taxes and a Tax Recovery Officer. Among the income tax authorities, the DCT holds a very important position enforcing both executive and judicial power. He is appointed by the Board and works under the supervision of the Commissioner of Taxes in respect of specific areas or persons or income. The main functions and powers of the DCT are as follows:

- (i) Jurisdiction of DCT: The DCT shall perform their functions in respect of specific areas, or persons, or cases, or incomes as the commissioner to whom they are subordinate may assign to them. [Section 6(1)(c)]
- (ii) Extension of Tax Return Submission Time: The last date for the submission of return may be extended upto two months by the DCT in respect of any person or class of persons. He may further extend the date upto two months with the approval of the Inspecting Joint Commissioner. [Section – 75(3)]
- (iii) Issue of Notices: The DCT issues written notices to any person or company to file a return of their total income within stipulated time (not being less than 21 days or within extended period as the DCT allows); to produce and present relevant books of accounts and documents; to file the Statement of Assets, Liabilities and Lifestyle. [Section – 77, 79 & 80]

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- (iv) **Provisional Assessment:** The DCT may proceed to make a provisional assessment of the tax payable by the assessee on the basis of the return and the accompanying accounts and documents, and where no return has been filed, on the basis of the last assessment [Section – 81]
- (v) **Assessment on Correct Return:** Being satisfied with the information presented in the return or revised return, The DCT may assess the total income of the assessee and determine the tax payable by him on the basis of such return and communicate the assessment order to the assessee within thirty days next. [Section – 82]
- (vi) **Assessment after Hearing:** Being dissatisfied with the information presented in the return or revised return, The DCT may serve a notice to the assessee requiring him to appear before the DCT with relevant documents for hearing. Within 30 days after the completion of the hearing and consideration, the DCT assess the total income of the assessee and determine the tax payable by him on the basis of such assessment. [Section – 83]
- (vii) **Best Judgment Assessment:** Where any person fails to file the return or revised return and to comply with the requirements of a notice under section 77, 78, 79, 80, or 83, the DCT may assess the total income of the assessee to the best of his judgment and determine the tax payable by him on the basis of such assessment and communicate the assessment order to the assessee within thirty days next. [Section – 84]
- (viii) **Assessment in Case of Persons Leaving Bangladesh:** Where it appears to the DCT that any person may leave Bangladesh during the current financial year or shortly after its expiry and he has no intention of returning, an assessment may be made in that year by the DCT. [Section – 91]
- (ix) **Assessment in Case of Income of a Deceased Person:** The DCT may assess the total income of a deceased assessee and issue a notice to his legal representatives to pay the tax. [Section – 92]
- (x) **Assessment in Case of Income Escaping Assessment:** If, for any reason, any income chargeable to tax for any year has escaped assessment or has been under assessed or has been assessed at too low a rate or has been the subject of excessive relief or refund under the ITO – 1984, The DCT may issue a notice to the assessee and may proceed to assess or determine the total income of the assessee or the tax payable by him, applying all the relevant provisions accordingly. [Section – 93]
- (xi) **Tackling tax avoidance:** If it appears to the DCT that an assessee has avoided tax through transactions with non-residents intentionally, the DCT may assess the total income again to determine the correct amount of income and tax. [Section – 104]
- (xii) **Issue of Tax Clearance (TC) & Tax Exemption Certificates (TEC):** The DCT has the authority to issue TC & TEC to the assessee as per ITO – 1984. [Section – 107]
- (xiii) **Power to Call for Information:** The DCT has the power to call for information from any firm, HUF, person including a banking company, assessee, dealer, broker or agent through issuing notices. [Section – 113]
- (xiv) **Power to Inspect Registers of Companies:** The DCT has the power to inspect any register of the members, debenture holders or mortgagees of any company or any entry in such register. [Section – 114]
- (xv) **Additional Powers of Enquiry and Production of Documents:** Being authorized in writing, the DCT may seek for any information from the assessee for the purpose of making any enquiry which he considers necessary. [Section – 116(3)]

- (xvi) **Power of Search and Seizure:** DCT may impose the power of search and seizure in case of the assessee's non-compliance with the provisions of the ITO – 1984 [Sec 117]
- (xvii) **Power to Take Evidence on Oath:** The DCT, for the purposes of ITO – 1984, has the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of discovery and inspection, enforcing the attendance of any person and examining him on oath, compelling the production of accounts or documents, issuing commissions for the examination of the witness. [Sec. – 122]
- (xviii) **Power of Imposing Penalty for not maintaining Accounts in the Prescribed Manner:** Where any person, without reasonable cause, has failed to comply with the provisions under section 35(2) regarding the maintenance of accounts and documents properly, The DCT may impose on him a penalty as per section 123.
- (xix) **Power of Imposing Penalty for Failure to File Return, etc.:** Where any person, without reasonable cause, has failed to file a return of income required by sections 75, 77, 89(2), 91(3) or 93(1); to file or furnish any certificate, statement, accounts or information required by sections 58, 108, 109, or 110; to file TIN certificate under section 148C, The DCT may impose on him a penalty as per section 124.
- (xx) **Power of Imposing Penalty for other reasons:** The DCT may impose on the assessee a penalty for failure to pay advance tax, for non-compliance with notice, to pay tax on the basis of return, for concealment of income as per sec. 125, 126, 127 and 128.
- (xxi) **Issuing Certificate for Recovery of Tax:** The DCT has the power to forward a Certificate for Recovery of Tax to the TRO imposing him with the authority of recovering the arrear tax from the defaulter assessee. He has also the power of withdrawal of the certificate. [Sections – 138 & 140]

So, from the above discussion it is clear that the DCT plays a vital role in the whole of tax administration of the country, enforcing both executive and judicial power. He acts like the middleman between the taxpayers and the tax authority. According to section 6(4), decisions regarding assignment and transfer of cases to any authority or performance of functions of DCT under this section cannot be challenged in any court or other authority.

4.5.8 Tax Recovery Officers (TRO):

As per section 2(64), Tax Recovery Officer is appointed under section 3 of ITO – 1984 by the Board. These officers are nominated by the Commissioner of Taxes among the Deputy Commissioner of Taxes within his jurisdiction. The main responsibility of the Tax Recovery Officer is to collect arrear taxes from the defaulter assesses after receiving a certificate for recovery of the tax, forwarded by the DCT as per section 138 of the ITO – 1984. As per section 139 of the ITO – 1984, the main functions of the TRO are as follows:

- (i) A TRO may recover arrear taxes from the aseessees by any mode [Section 139(1)]:
 - (a) attachment and sale, or sale without attachment, of any movable or immovable property of the assessee;
 - (b) Arrest of the assessee and his detention in prison;
 - (c) Appointment of a receiver for the management of the movable and immovable properties of the assessee.
- (ii) The TRO may also recover in the same above manner from the assessee in default, in addition to the amount of arrear taxes, [Section 139(2)]:
 - (a) the interest for which the assessee is liable under section 136; and
 - (b) any cost and charges, including expenses of the service of any notice or warrant, incurred in the proceedings for the recovery of arrear taxes.

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- (iii) If the TRO is not able to recover the entire amount by the sale of movable and immovable properties of the assessee within his jurisdiction, may send the certificate to other TRO within whose jurisdiction the assessee has additional assets, to recover the rest of the amount through same procedures [Section 139(3)].

4.5.9 Assistant Commissioners of Taxes:

As per section 2(10), Assistant Commissioners of Taxes is appointed under section 3 of ITO – 1984 by the Board. He will perform his functions as per the instructions of the authorities for the assistance of whom he has been appointed. As per section 2(23) he may also work as the DCT, if authorized by the Board.

4.5.10 Extra Assistant Commissioners of Taxes:

As per section 2(29), Extra Assistant Commissioners of Taxes is appointed under section 3 of ITO – 1984 by the Board. He normally provides notices to the assesses on behalf of DCT, inspects tax returns and other relevant documents, recover taxes from defaulters. As per section 2(23) he may also work as the DCT, if authorized by the Board.

4.5.11 Inspector of Taxes:

As per section 2(37), Inspector of Taxes is appointed under Section 3 of ITO – 1984 by the Board. He is appointed to assist the DCT or IJCT within whose jurisdictions they conduct their functions and duties. As per section 2(23) he may also work as the DCT, if authorized by the Board. Their main duties include:

- (i) He may inspect books of accounts and other documents to check the accuracy and authenticity of the information presented in those books by the assessee.
- (ii) He conducts survey to find out new assesses or new income sources of old assesses to with a view to widening the tax net.
- (iii) He helps the Tax Recovery Officers in recovery of arrear tax from assesses.
- (iv) He works to detect and prevent tax evasion in the country.
- (v) Executes other orders of DCT and superior authorities beside his regular functions.

SELF REVIEW 4 – 2

- (a) State any five duty of deputy commissioner of taxes.
(b) How a TRO may recover arrear taxes from the aseessees?
-

4.6 JUDICIAL AUTHORITIES: POWERS AND FUNCTIONS

If an assessee is not satisfied with the decisions of the administrative authority, he can move for appeal to the appropriate judicial authority. The status, power and functions of various judicial authorities are enumerated below:

4.6.1 Appellate Joint Commissioner of Taxes (AJCT):

According to section 2(4), "Appellate Joint Commissioner" means a person appointed to be an AJCT under section 3 and includes an Appellate Additional Commissioner of Taxes and also a person appointed to hold current charge of an Appellate Joint Commissioner of Taxes. This authority is appointed by the Board and perform functions regarding specific judicial activities associated to person, income, case or area; assigned by the Board. They are entrusted with the following powers and responsibilities:

- (i) He can inspect any register of the members, debenture holders or mortgagees of any company or any entry in such register as per section – 114.

- (ii) He can impose penalty for concealment of income on the assessee as per sec. 128.
- (iii) He can order for imposing penalty and a copy of such order can be sent to the DCT for taking necessary steps as per section 132.
- (iv) He can accept an appeal against order of the DCT and Inspecting Joint Commissioner as per section 153 and 154.
- (v) He has the power to fix a day and place for the hearing of the appeal as per sec. 155.
- (vi) He has the power to retain, change, reduce, enhance or cancel the decision of DCT after hearing the appeal as per section 156.

4.6.2 Appellate Additional Commissioner of Taxes:

They are appointed by the Board and work under the direct control of the Board. They may be directed by the Board to perform their functions in respect of specified areas, persons or classes of persons or income. Although they are appointed by and work under the Board, their appellate powers and functions cannot be interfered by the Board.

4.6.3 Commissioner of Taxes (Appeals):

According to section 2(19A), “Commissioner (Appeals)” means a person appointed to be a Commissioner of Taxes (Appeals) under section 3 and includes a person appointed to hold current charge of a Commissioner of Taxes (Appeals). They are appointed by the Board and work under the direct control of the Board. They are directed by the Board to perform their judicial functions in respect of specified areas, persons or classes of persons or income. The aggrieved assessee may appeal to him against the decisions of Appellate Joint Commissioner of Taxes. Moreover, he is also entrusted with the same powers and functions of the Appellate JCT as per sections 122, 128, 132, 153, 154, 155 and 156.

4.7 TAXES APPELLATE TRIBUNAL

According to section 2(5), “Appellate Tribunal” means the Taxes Appellate Tribunal established under section 11. As per section 3, it is not a part of income tax authority. But in order to facilitate the aggrieved assessee and the DCT with allowing them to file an appeal against the order of an Appellate Joint Commissioner or the Commissioner (Appeals); the government forms the “Taxes Appellate Tribunal” under section 11 of ITO – 1984 as a judicial body. The provisions regarding the formation, qualification of members and functioning are as follows:

- 4.7.1 Formation of Taxes Appellate Tribunal:** For the purpose of exercising the functions of the Appellate Tribunal under this ordinance, the government shall establish a Taxes Appellate Tribunal consisting of a President and such other members as the Government may, from time to time, appoint. [Section – 11(1)]
- 4.7.2 Qualification of the members:** As per section 11(3), a person shall not be appointed as a member of the Taxes Appellate Tribunal unless-
 - (i) he was or is a member of the Board or holds the current charge of a member of the Board; or
 - (ii) he was a Commissioner of Taxes; or
 - (iii) he is a Commissioner of Taxes; or
 - (iv) he is a chartered accountant and practiced professionally for a period not less than eight years; or
 - (v) he is a cost and management accountant and practiced professionally for a period not less than eight years; or

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- (vi) he is an income tax practitioner within the meaning of section 174(2)(f) and practiced professionally for not less than twenty years; or
- (vii) he is a professional legislative expert having not less than eight years experience in the process of drafting and making financial and tax laws;
- (viii) he is an advocate and practiced professionally for not less than ten years in any income tax office; or
- (ix) he is, was or has been a district judge.

4.7.3 Appointment of the President: Government shall appoint one of the members of the Appellate Tribunal to be the president of the Tribunal who is a member of the Board or holds the current charge of a member of the Board [Section 11(4)].

4.7.4 Exercise of Power: As per section 12, generally the powers and functions of the Appellate Tribunal (AT) shall be exercised by Benches of the AT, to be constituted by the President having not less than two members. Moreover, as per section 14, the government may direct that the powers and functions of the AT shall be exercised by any one of its members, or by two or more members jointly or severally.

4.7.5 Decision of Bench: As per section 13, the decision of a bench in any case or on any point shall be given in accordance with the opinion of the majority of its members. But if the members are equally divided in any point, they will refer it to the president who may refer the case to one or more other members of the Tribunal for hearing and the point shall be decided according to the majority of the members of the Appellate Tribunal who have heard it including those who first heard it.

However, where there are only two members of the Appellate Tribunal and they differ in any case, the Government may appoint an additional member of the Appellate Tribunal for the purpose of hearing the case and the decision of the case shall be given in accordance with the opinion of the majority of the members of the Appellate Tribunal as constituted with such additional member.

4.7.6 Powers and Functions::

- ⊕ It can accept appeal of an assessee who is aggrieved by an order of an Appellate JCT or the CT (Appeals) as the case may be, u/s 128 or 156 [Sec 158(1)(a)].
- ⊕ It can also accept appeal of the DCT against the order of an Appellate Joint Commissioner or the Commissioner (Appeals) under section 156. [Sec. 158(2A)].
- ⊕ On a valid ground appeal is admitted after the expiry of 60 days [Sec. 158(4)].
- ⊕ It may pass orders as it thinks fit after giving both the parties a chance of being heard. [Section – 159(1)].
- ⊕ It may call for relevant particulars or cause further inquiry by the DCT before disposing any appeal. [Section – 159(2)].
- ⊕ It may direct the DCT to amend the assessment of an assessee. [Section 159(3)].
- ⊕ It has the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (Act V), when trying a suit of certain matters [Section 122(1)].
- ⊕ It may impose a penalty for concealment of income by the assessee [Sec. 128].
- ⊕ Send copy of the order of penalty on an assessee, to the DCT [Section 132].
- ⊕ The orders from the Appellate Tribunal on appeal shall be final [Section 159(5)].
- ⊕ It will communicate its order on the appeal to the assessee and to the commissioner within thirty days from the date of such order. [Section 159(4)].

- 4.7.7 Regulation of Procedure:** Subject to the provisions of this Ordinance, the Appellate Tribunal shall regulate its own procedure and the procedure of its Benches in matters arising out of the discharge of its functions including the places at which a Bench shall hold its sittings [Section – 15].

4.8 ROLE OF CIVIL COURTS REGARDING INCOME TAX

The role of civil courts regarding income tax is not very significant since no suit shall be brought in any Civil Court to set aside or modify any assessment made under this Ordinance [Section – 182(1)]. High Court Division and Supreme Court Division can only give explanation of law to any point referred to them by the assessee or the Commissioner of Taxes. On the basis of the explanation, the Tribunal can give the final verdict. An appeal can also be filed against the judgment of the High Court Division in any case which the High Court Division certifies to be a fit one for appeal to the Appellate Division [Section 161 & 162].

4.9 ASSISTANCE TO INCOME TAX AUTHORITIES [SECTION – 184E]

All officers and staff of government and semi-government organizations, law enforcement agencies, autonomous bodies, statutory bodies, financial institutions, educational institutions, private organizations, local government and non-government organizations shall assist the income tax authorities in the discharge of their functions under the ITO, 1984.

KEY POINTS

1. Income tax authorities hold the sole authority to execute the laws relating to income tax applicable in the land.
2. Chapter II (Sec 3-10) of the Income Tax Ordinance, 1984 deals with the appointment, power and responsibilities of income tax authorities with their respective authority responsibility relationships.
3. Income tax authorities may be classified as administrative and judicial authority depending on their functions.
4. Administrative authorities look after the total administration of income tax wing starting from the identification of assessee to the collection of taxes from the assesseees.
5. Judicial authorities hear the claims of the assesseees and give the verdict as early as possible.
6. The National Board of Revenue (NBR) as the apex body enjoys the power to appoint income tax authorities in accordance with the provisions of the IT Ordinance, 1984 subject to the rules and orders of the government regulating the terms and conditions of service of persons in public services and posts.
7. Any income tax authority may appoint any income tax authority subordinate thereto subject to the orders and instructions as the board may issue from time to time.
8. NBR has the power to make rules for carrying out the purposes of this ordinance.
9. Taxes Appellate Tribunal is not a part of income tax authority but in order to facilitate the aggrieved assesseees and the DCT with allowing them to file an appeal against the order of an Appellate Joint Commissioner or the Commissioner (Appeals); the government forms the “Taxes Appellate Tribunal” as a judicial body.
10. The role of civil court regarding income tax is not significant since no suit shall be brought in any Civil Court to set aside or modify any assessment made under this Ordinance.

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Multiple choice questions:

1. Most of the income tax authority has been appointed by –
 - a) Ministry of Finance
 - b) NBR
 - c) Appellate Tribunal
 - d) Government
2. The chairman and members of NBR are appointed by –
 - (a) Ministry of Finance
 - (b) Commissioner of Taxes
 - (c) Appellate Tribunal
 - (d) Government
3. Commissioner of Taxes works as per the direction of –
 - (a) Ministry of Finance
 - (b) NBR
 - (c) Appellate Tribunal
 - (d) Government
4. The last date for the submission of return may be extended by the DCT upto –
 - (a) 21 days
 - (b) 30 days
 - (c) 60 days
 - (d) 90 days
5. The DCT issues written notices to any person or company to file a return of their total income within stipulated time not being less than –
 - (a) 21 days
 - (b) 30 days
 - (c) 60 days
 - (d) None of the above
6. The aggrieved assessee may appeal to whom against the decision of Appellate Joint Commissioner of Taxes –
 - (a) Appellate Tribunal
 - b) Appellate Additional Commissioner of Taxes
 - c) Commissioner of Taxes (appeal)
 - d) None
7. Tax Appellate Tribunal is a –
 - a) Administrative body
 - b) Judicial body
 - c) Independent body
 - d) None of the above
8. Following are the qualification to be a member of Tax Appellate Tribunal, except –
 - a) he was a member of the Board
 - b) he was a Commissioner of Taxes
 - c) chartered accountant with not less than eight years practical experience
 - d) an advocate with not less than eight years experience in any income tax office

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9. The aggrieved assessee may appeal to whom against the decision of DCT or IJCT –
 - (a) Appellate Tribunal
 - (b) Appellate Additional Commissioner of taxes
 - (c) Appellate Joint Commissioner of taxes
 - (d) Commissioner of Taxes (appeal)
10. Who works to detect and prevent tax evasion in the country –
 - (a) Commissioner of Taxes
 - (b) Deputy Commissioner of Taxes
 - (c) Tax Recovery Officer
 - (d) Inspector of Taxes

Identify the following statements as either true (T) or false (F):

1. Any income tax authority may appoint any income tax authority subordinate thereto subject to the orders and instructions as the board may issue from time to time.
2. Administrative authority has been formulated to hear the claims of the assessee and to give them the verdict as early as possible.
3. Joint Commissioner of Taxes (inspecting) has the power to revise any order of DCT within 4 years.
4. Best judgment assessment is generally conducted by the Commissioner of Taxes.
5. High Court Division and Supreme Court Division can only give explanation of law to any point referred to them by the assessee or the Commissioner of Taxes.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 4 – 1:** Who are the income tax authorities? Present income tax authority in a diagram reflecting power of different administrative and judicial body.
- Question 4 – 2:** How do you think income tax authorities have been appointed?
- Question 4 – 3:** What is NBR? Explain the powers and functions of NBR.
- Question 4 – 4:** “The DCT plays a vital role in the whole of tax administration of the country” – do you agree? Explain.
- Question 4 – 5:** “The main responsibility of the Tax Recovery Officer is to collect arrear taxes” – explain.
- Question 4 – 6:** What is Tax Appellate Tribunal? Explain the required qualifications to be a member of Tax appellate Tribunal.
- Question 4 – 7:** Briefly explain the functions of Appellate Joint Commissioner of Taxes.
- Question 4 – 8:** Write short note on:
 - (a) Judicial Authority
 - (b) NBR
 - (c) Tax Appellate Tribunal
 - (d) DCT

Chapter – 4: Income Tax Authority

Answers:

Multiple choice questions		True/False
1. b	6. c	1. T
2. d	7. b	2. F
3. b	8. d	3. T
4. c	9. c	4. F
5. a	10. d	5. T

Self review 4 – 1:

- (a) Income tax authorities hold the sole authority to execute the laws relating to income tax applicable in the land and to run various departments formed for streamlining the functions like identification of assessee; computation of taxable income, net tax liability etc.
- (b) Administrative: To look after the total administration of income tax wing starting from the identification of assessees to the collection of assessees.

Judicial: To hear the claims of the assessees and to give them the verdict as early as possible.

Self review 4 – 2:

(a) Functions of DCT:

1. The DCT issues written notices to any person or company to file a return of their total income
2. The DCT may proceed to make a provisional assessment
3. The DCT may conduct best judgment assessment
4. The DCT may impose on the assessee a penalty for non compliance
5. The DCT may further extend the date filing return upto three months with the approval of the Inspecting Joint Commissioner.

(b) A TRO may recover arrear taxes from the asessees by any of the following modes:

- (i) attachment and sale, or sale without attachment, of any movable or immovable property of the assessee;
- (ii) Arrest of the assessee and his detention in prison;
- (iii) Appointment of a receiver for the management of the movable and immovable properties of the assessee.

CHAPTER – 5

INCOME AND ITS CLASSIFICATION

LEARNING OBJECTIVES

After studying Chapter 5, you shall be able to understand:

- ✦ the concept of income and its characteristics
- ✦ capital and revenue nature of income & expenditure
- ✦ the concept of total income and total world income
- ✦ different classes of income and their impact
- ✦ sources of income
- ✦ non-assessable or tax-exempted income
- ✦ tax credit income or investment allowance

5.1 DEFINITION OF INCOME

The concept of income is central to the Income Tax Act as it is the income that is taxed. Anything, which can be defined as income is taxable unless specifically exempted from tax. According to the Oxford Dictionary, the term “income” means periodical, especially annual receipt from one’s work, lands, investments. It includes any sum that a person or organization receives either as a reward for effort (e.g. salary or trading profit) or as a return on investments (e.g. rents or interests). The concept of income is the main theme to the ITO, 1984 as it is the income that is taxed by it. Anything which can be defined as income is taxable unless specifically exempted from tax. On the other hand, a receipt that cannot be termed as income cannot be assessed. The term ‘income’ has not clearly been defined in the ITO, 1984, rather what to be included and not to be included under the income head has been explained. According to the Section 2(34) of the ITO, 1984, “income” includes –

- (a) any income, receipts, profits or gains, from whatever source derived, chargeable to tax under any provision of this Ordinance;
- (b) any amount which is subject to collection or deduction of tax at source under any provision of this Ordinance
- (c) any loss of such income, profits or gains;
- (d) the profits and gains of any business of insurance carried on by a mutual insurance association computed in accordance with paragraph 8 of the Fourth Schedule;
- (e) any sum deemed to be income, or any income accruing or arising or received, or deemed to accrue or arise or be received in Bangladesh under any provision of this Ordinance;
- (f) any amount on which a tax is imposed;
- (g) any amount which is treated as income under any provision of this Ordinance.

Definitions of income as per various court decisions:

1. “Income is what comes in from outside. No man can make a profit by dealing with himself” – [CIT vs. Hind Construction Ltd. (1972) 83 I.T.R 211 (S.C)]
2. “Income includes every kind of receipts or gain” - [CIT vs. Navin Chandra Mafatlal (1954), 26 I.T.R. 758 (S.C)]
3. “Essentially the concepts of income indicates something which goes into the pocket of the assessee and not what saves in its pocket” - [Bhagwan Das Jain vs. Union of India (1981), 5 taxman 7 (S.C)]

The definition given above is an inclusive definition and not exhaustive. It is not capable of expressing the exact definition. It has got a legal concept. Income in this ordinance connotes a periodical monetary return “coming in” with some sort of regularity or expected regularity, from definite sources after deducting allowable expenses.

5.2 CHARACTERISTICS OF INCOME

From the above discussion, it is clear that the term ‘income’ is difficult to define and therefore a lot of litigation has taken place all over the world to sort out difference of opinion in this regard. Considering the judgments we can find the following salient features of income:

1. **Periodical return:** The term ‘income’ under the ITO, 1984, refers to a periodical monetary return coming in with some sort of expectation and definite sources.
2. **Received from third party:** Income must come from outside. Pocket money received by a student from his father is not income. [CIT vs. Hind Construction Ltd., 1972]
3. **Definite source:** It arises from or out of a source, like work by way of employment or profession or vocation or investment in business assets or government securities or shares, debentures etc., or the land or things erected on or connected with land.
4. **Revenue receipts:** Income is one kind of revenue receipts which is essentially the product of capital. [CIT vs. Shaw Wallence & Co., 1932]
5. **Tainted with illegality:** Legality is not an important factor to consider an item as income. Legal or illegal both incomes may be charged for tax.
6. **Income in kind:** Income may be received either in money or in kind or in the form of perquisites which can be measured in terms of money. [CIT vs. Kameshwar Singh]
7. **Received or accrued:** Income must be earned but may have already been received or not. Income earned but receivable will also be considered as income. [Trinidad Lake Asphalt Operating Co. vs. CIT]
8. **Real:** Income means real income not fictitious income. [CIT vs. B. M. Kharwar]

5.3 CAPITAL AND REVENUE RECEIPTS AND EXPENDITURES

The distinction between capital and revenue is important for the purpose of income tax. It is the revenue receipt and not capital, that is put to tax. The only exception being is the capital gains. In the same way, only revenue expenditure is allowed to be deducted while calculating income whereas amount spent to acquire capital assets is ignored altogether. The concept of capital and revenue should be discussed with regard to receipts, expenditure and losses.

Receipts are of two types – revenue or capital. *Revenue receipts* arise on account of sale of goods and services in business. This is a regular flow of receipts. On the other hand, *capital receipts* are those receipts which are received on selling of capital assets, e.g. sale proceeds of residential house. Similarly expenditure can also be classified as revenue or capital. Expenses incurred in day-to-day running of business are known as *revenue expenditure*, e.g. salary, wages etc. But, amount spent on acquiring of capital assets is termed as *capital expenditure*. Such as, purchase of Plant & Machineries. Losses do occur in business. Some of them are allowable losses which are deductible from business income while computing taxable income, while some of them are not. Although the distinction between capital and revenue can be fairly recognized and easily applied, there is no clear guideline in the ITO, 1984 about such distinctions. Based on accounting principles, economic considerations and judicial remarks we can distinguish them. Various tests have been evolved for distinguishing between capital and revenue receipts and expenditure, but no test is paramount or conclusive. There is no all-embracing formula which can provide a ready solution to the problem;

no touch-stone has been devised. Every case has to be decided on its own facts, keeping in mind the broad picture of the whole operation in respect of which the income has been receipt and the expenditure has been incurred [CIT vs. Karanpura Development Com. (1983) 144 ITR 538].

5.3.1 Distinguishing Tests of Revenue and Capital Receipts:

Following tests can be applied in distinguishing capital and revenue receipts:

1. **Fixed and Circulating:** A receipt on account of fixed capital is a capital receipt. And a receipt against circulating capital is a revenue receipt, therefore, taxable.
2. **Sources of compensation:** Compensation received for the immobilization, sterilization or destruction of a capital asset is capital receipt. Compensation received for harmful affect of a trading asset is a revenue income and liable to tax.
3. **Motive of seller in case of isolated transactions:** In the case of an isolated transaction of purchase and sale of property, the motive of the seller is a deciding factor in determining the nature of the receipt. Where assets are held as investment, receipt from sale of such assets will be considered as capital receipt. Whereas, receipt from the sale of an asset who holds them for trade or resale, will be considered as revenue receipt.
4. **Surrender of rights:** Any amount received for surrender of certain rights under an agreement is a capital receipt. On the other hand, any amount received by way of compensation for loss of future profits is termed as revenue receipt.
5. **Nature of receipt:** The nature of receipts in the hand of the receiver, not the nature of payment, will determine whether a receipt is capital or revenue in nature. Such as, if in a newly established business, the owner pays salary, bonus and wages out of the capital, it will be treated as revenue receipt for the receiver, and will be taxable.
6. **Periodicity of receipt:** Generally capital receipts are received on a lump sum basis. But whether the receipt is lump sum or periodical is not the factor to decide nature of receipts as revenue or capital. Salary will be considered to be a revenue receipt whether it is received once in a year or periodically every month. But, if the sale proceed of a capital asset is received on an installment basis, will be considered as capital receipt.

Examples of Revenue and Capital Receipts:

Capital Receipts	Revenue Receipts
1. Sale of Capital assets like Land, Machine, Furniture etc. of a business.	1. Receipt of annual royalty from user of rights.
2. Compensation received for the termination of job e.g. Golden Handshake.	2. Compensation received for loss of goods in transit.
3. Royalty received for transfer of capital rights.	3. Sale of marketable securities which has been purchased with a view to resale.
4. Insurance claim received for loss caused by fire to a capital asset.	4. Proceeds from sale of forest trees.
5. Any receipt to meet capital expenditure.	

5.3.2 Distinguishing Tests of Revenue and Capital Expenditures:

Unlike receipts, following tests are important in determining whether a particular expenditure is capital expenditure or revenue expenditure in nature:

1. **Nature of goods purchased:** Amount spent on acquiring or purchasing or installing a capital asset will be considered as capital expenditure. Whereas, if it is paid to acquire purchase of goods for resale, will be considered as revenue expenditure.
2. **Nature of liability:** Payment made by the assessee to free himself from a liability of capital nature will be treated as capital expenditure. Whereas, any payment made by

the assessee to discharge himself from the recurring liability will be considered as revenue expenditure. For example, Compensation paid to a contractor for premature termination of contract pertaining to construction of a factory building will be capital expenditure but compensation paid to an employee for the termination of his service (e.g. golden handshake) is an example of revenue expenditure.

3. **Acquiring a source of income:** Any amount paid for the acquisition of a source of income shall be of capital expenditure in nature. On the other hand, the payment made for earning of certain income shall be revenue expenditure. For example, any payment made for buying a coal mine will be capitalized whereas payment made to procure coals from mine will be revenue in nature.
4. **Improvement, Development or Replacement of an asset:** If the amount is paid to increase the efficiency and capacity of the business assets, or replace an existing business asset, will be a capital expenditure. But when certain payments are made just to maintain the existing efficiency of an asset, they are revenue expenditure. For example, payment made to install a generator will be a capital expenditure, but annual repair and maintenance cost for the generator is revenue expenditure.
5. **Earning profits or producing profits:** A payment made in consideration of the acquisition of rights and opportunity to earn profits is a capital expenditure. But, the expenditure incurred to conduct the business activities with a view to earning profit will be revenue expenditure. For example, to purchase the license of Cellular Phone Operation for 10 years is a capital expenditure. But annual royalty expense is an example of revenue expenditure.

Examples of Revenue and Capital Expenditures:

Capital Expenditure	Revenue Expenditure
1. Sum paid to acquire a capital asset.	1. Payment of commission to the sales agents.
2. Cost of reconstructing and refurnishing business premises.	2. Annual license fee.
3. Payment for the purchase of mining rights.	3. Repair expense and maintenance cost of machineries.
4. Expenses paid in connection with purchase of fixed assets. E.g. legal exp. for land purchase.	4. Regular expenditure incurred on advertisement, salary, rent and other operating expenses
5. Payment for the acquisition or purchase of the goodwill of any business.	

5.4 LOSSES

A loss is different from the concept of expenditure. Against loss there is no return or benefit has been received. This is also known as the excess of expenses over revenues in an accounting period of a business. A business loss is allowable if it is of non capital nature and is not only connected with the trade but also is incidental to the trade itself [CIT vs. J K Cotton Spng. & Wvg. Mills (1960) 123 ITR 911]. In assessing the taxable profits of a year account must necessarily be taken of all losses incurred besides the expenditure allowable under various provisions of the ITO, 1984.

SELF REVIEW 5 – 1

1. State some characteristics of income and also explain the nature of the following transactions –
2. Compensation received for golden handshake and compensation received for goods lost in fire.
3. Purchase of furniture for use and for resale purpose.

5.5 SCOPE OF TOTAL INCOME & TOTAL WORLD INCOME

(a) Total Income:

According to the provisions stated in the ITO, 1984, the scope of total income varies according to the residential status of an assessee. Total income is to be computed following provisions of this ordinance. Total income of a resident assessee includes [Section 17(1)]:

1. Income received or deemed to be received in Bangladesh
2. Income accrues or arises or deemed to accrue or arise in Bangladesh
3. Income accrues or arises outside Bangladesh

But for a non-resident, only the income received or deemed to be received and income accrues or arises or deemed to accrue or arise in Bangladesh are to be included in the total income. These incomes are classified and computed on the basis of following seven sources [Section – 20]:

- | | |
|-------------------------------|---------------------------------------|
| 1. Salaries | 5. Income from Business or Profession |
| 2. Interest on Securities | 6. Capital Gains |
| 3. Income from House Property | 7. Income from other sources |
| 4. Agricultural income | |

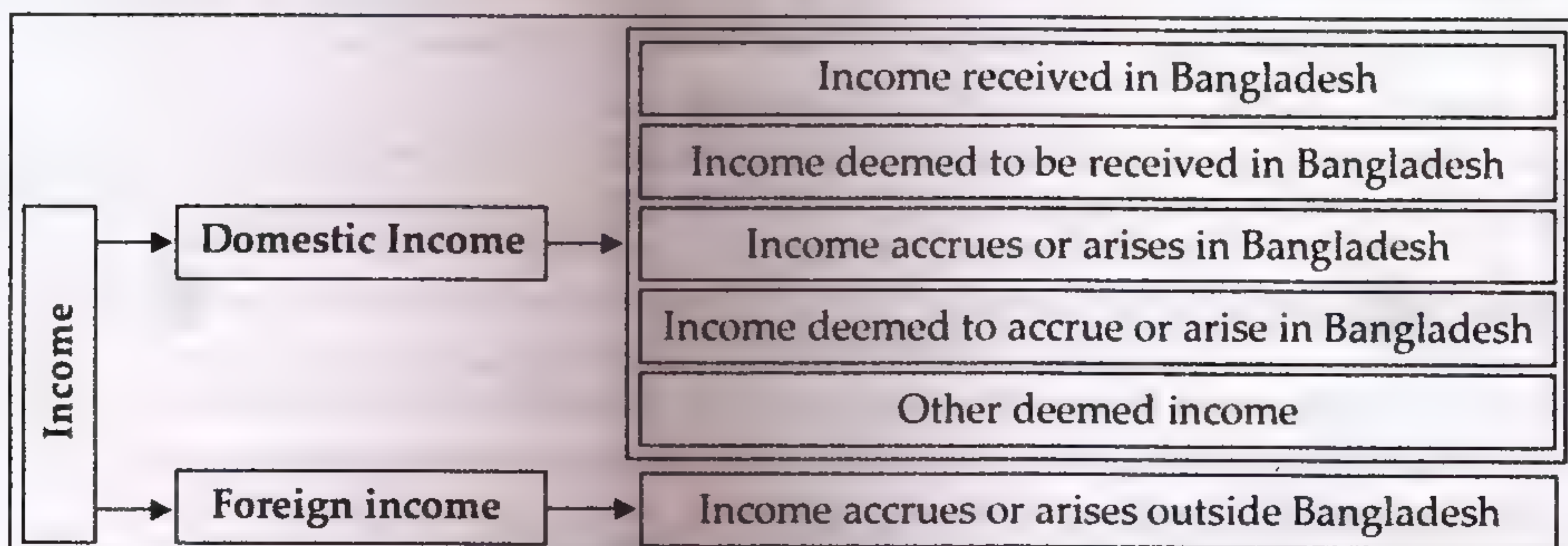
But in Income Tax Rule – 24, “Specimen Form of Return of Income under the ITO, 1984 – Part II” total 10 heads of income have been mentioned. Among those the additional heads are Share of profit in a firm, Income of the spouse or minor child as applicable u/s 43(4) and foreign income. While computing the income under the above heads, provisions regarding set-off and carry-forward, clubbing of incomes, exemptions and allowable deductions have to be considered.

(b) Total World Income:

The term “Total World Income” is relevant for a non-resident only, whose income includes, the income received or deemed to be received and income accrues or arises or deemed to accrue or arise in Bangladesh. To determine the total world income, income accrues or arises outside Bangladesh is also to be added with the total income of a non-resident. Total world income is calculated to determine the rate at which a non-resident is chargeable on his income earned in Bangladesh i.e. taxable country. The non-resident assessee pays tax on income earned in Bangladesh at the rate applicable to his total world income.

5.6 CLASSIFICATION OF INCOME – ON THE BASIS OF LOCALITY

The income which is earned by an assessee within the boundary of the taxable territory i.e. Bangladesh, can be termed as “Domestic Income” and if it is earned from outside the taxable territory i.e. other countries of the world, it is “Foreign Income”. On the basis of the residential status, an assessee can be a resident or a non-resident. The total income of a resident is the sum of his domestic income and foreign income. But in case of a non-resident, total income will include only his domestic income. The classification can be presented as it is in the following diagram:



5.6.1 Domestic income:

All the incomes received, deemed to be received, accrues or arises, deemed to accrue or arise in Bangladesh are considered domestic income. They are as follows:

a) Income received in Bangladesh:

These are the incomes earned and received either by the assessee or his agent in Bangladesh in an income year. Income received in Bangladesh during the income year is taxable in the hands of all assessees i.e. both residents and non-residents. It is only the first receipt either by the assessee or his agent. For example, income received from salary in India for a job in India and subsequently remitted to Bangladesh will be considered as foreign income since it was the subsequent receipt, not the first receipt. Income may either be received in cash or in kind.

b) Income deemed to be received in Bangladesh:

These are the incomes which are not actually received by the assessee but the law treats them as income received for income tax purposes. This is treated at par with income received. Such incomes as are deemed to be received in Bangladesh are as follows:

- i) Any dividend declared or distributed by a company within the meaning of Section 19(7) shall be deemed to be the income of the income year in which it is received and shall be included in the total income of the assessee of that year.
- ii) Where an employee is a member of a recognized provident fund, the annual accretions during the income year to his account under the provident fund scheme consisting of –
 - ✦ Aggregate contribution in excess of one-third of his salary for that year.
 - ✦ Interest credited on the accumulated balance of an employee in excess of one third of the salary of the employee and is allowed at a 14.5% rate.
 is deemed to have been received by the employee in that income year and is taxable.
- iii) Balance transferred to a newly Recognized Provident Fund from a previously Unrecognized Provident Fund as per Para 10(4), Section – B, First Schedule of the ITO.
- iv) Where tax is deducted at source under the provisions of the ITO; the tax so deducted is deemed to be the income received by such person (on whose behalf the tax is so deducted) in that income year in which such deduction is made by virtue of Sec. 48(2).

c) Income accrues or arises in Bangladesh:

Income is said to “accrue” when an enforceable right to receive it comes to vest with the assessee i.e. when it is earned by the assessee. It may be seen to convey the same meaning by the term “accrue” and “arise” which indicate a right to receive, but in reality it is not so. The word “accrue” or “arise” differ only as to the point of time of recognition of income in the books of accounts. Income accrues when it first comes into existence, it arises when the method of accounting shows it. Thus, there may arise a situation when income may accrue in one year, arise in the next year and may be received in the third year. Income earned in Bangladesh is considered as income accruing or arising in Bangladesh. Regarding this, the following general principles and guidelines are to be followed:

Sources of income	Guidelines to be accrued or arisen in Bangladesh
Salary	The employee has to serve in Bangladesh.
Interest on Securities	The securities must be issued in Bangladesh
Income from House Property	The properties must be situated in Bangladesh
Agricultural income	Agricultural land or properties must be situated in Bangladesh

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Income from Business or Profession	The entire activities of the business or profession must be held in Bangladesh.
Capital gain	Relevant capital asset or properties must be situated in Bangladesh
Income from other sources	The sources must be from Bangladesh

d) Income deemed to accrue or arise in Bangladesh:

According to Section 18 of the ITO, 1984; the following incomes shall be deemed to accrue or arise in Bangladesh, namely:-

1. any income which falls under the head "Salaries", wherever paid if –
 - (a) it is earned in Bangladesh; or
 - (b) it is paid by the Government or a local authority in Bangladesh to a citizen of Bangladesh in the service of such Government or authority;
2. any income accruing or arising, whether directly or indirectly, through or from –
 - (a) any business connection in Bangladesh;
 - (b) any property, asset, right or other source of income in Bangladesh; or
 - (c) transfer of capital assets in Bangladesh;

Provided that in the case of a business all the operations of which are not carried out in Bangladesh, only such part of the income as is reasonably attributable to the operation carried out in Bangladesh shall be deemed to accrue or arise in Bangladesh.

3. any dividend paid outside Bangladesh by a Bangladeshi company;
4. any income by way of interest payable –
 - (a) by the Government; or
 - (b) by a person who is a resident, except where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person outside Bangladesh or for the purpose of making or earning any income from any source outside Bangladesh; or
 - (c) by a person who is a non-resident where the interest is in respect of any debt incurred, or moneys borrowed and used for the purposes of a business or profession carried on by such person in Bangladesh or for the purposes of making or earning any income from any source in Bangladesh;
5. any income by way of fees for technical services payable –
 - (a) by the Government; or
 - (b) by a person who is a resident, except where such fees are payable in respect of services utilized in a business or profession carried on by any such person outside Bangladesh or for the purposes of making or earning any income from any source outside Bangladesh; or
 - (c) by a person who is non-resident where such fees are payable in respect of services utilized in a business or profession carried on by such person in Bangladesh or for the purposes of making or earning any income from any source in Bangladesh.
6. any income by way of royalty payable (either/or) –
 - (a) by the Government;
 - (b) by a person who is a resident, except where the royalty is payable in respect of any right, property or information used or services utilized for the purposes of a business or profession carried on by such person outside Bangladesh or for the purposes of making or earning any income from any source outside Bangladesh;

- (c) by a person who is a non-resident where the royalty is payable in respect of any right, property or information used or services utilized for the purposes of a business or profession carried on by such person in Bangladesh or for the purposes of making or earning any income from any source in Bangladesh.

e) Other deemed income:

According to Section 19 of the ITO, 1984 certain unexplained cash credits, investments, and expenditures including possession of money, bullion, jewellery etc. with an assessee shall be deemed to be his income for that income year, and to be included in his total income classifiable under relevant heads. 4 categories of deemed income has been mentioned under 31 sub-sections in Section 19 of the ITO, 1984. Of them two [19(22) & (30)] is related to "income from house property, two [19(17) & (19)] to "agricultural income", seven [19(6), (14), (15), (16), (18), (20) & (23)] to "income from business or profession", and nineteen [19(1-5), (7-13), (21), (21A), (21B), (24), (26-29), & (31)] to "income from other sources".

1. **Unexplained cash credit [Section 19(1)]:** Any sum credited in the books of accounts for any year, source of which cannot be explained, is income for that year under the head "Income from other Sources".
2. **Unrecorded investments or possession of bullion, jewellery etc. [Section 19(2)]:** Unexplained investments made in any year or possession of bullion, jewellery or other valuable articles in any year, in excess of what has been recorded in the books of accounts, is income for that year under the head "Income from other Sources".
3. **Unexplained expenditure [Section 19(3)]:** Where nature and source of any expenditure incurred during any year cannot be explained, such unexplained expenditure is income for that year under the head "Income from other Sources".
4. **Unrecorded investments [Section 19(4)]:** Amount of investments made in any financial year preceding in the books of account and nature and source of which cannot be explained, is income for the financial year under "Income from other Sources" head.
5. **Ownership of any money, bullion etc. [Section 19(5)]:** Where ownership of money, bullion, jewellery or other valuable articles in any financial year which are not recorded in the books of accounts and nature and source of which cannot be explained, the money of the value of such bullion, jewellery etc., is income for the financial year under the head "Income from other Sources".
6. **Income received from discontinued business [Section 19(6)]:** Income received during any income year from discontinued business is income of the said income year under the head "Income from business or profession".
7. **Declaration of dividend [Section 19(7)]:** Any dividend declared or distributed by a company is income of the income year in which it is declared and to be included in the total income of the assessee of that year.
8. **Difference between the purchase price and the fair market value [Section 19(8)]:** Where price paid by an assessee for purchase from any company of any asset other than stock-in-trade or stocks and shares and the price paid is less than the fair market value is income of the assessee under the head "Income from other Sources".
9. **Salami or premium [Section 19(9)]:** Lump sum amount received or receivable by an assessee during any income year on account of salami or premia receipts by virtue of any lease, is income of the assessee of that income year under the head "Income from

other Sources". The receipts may be allowed at the option of the assessee proportionately to the years covered by the entire lease period but not exceeding five years.

10. **Goodwill, compensation or damages etc. [Section 19(10)]:** Receipt of any amount by an assessee by way of goodwill money or compensation or damages for cancellation or termination of contracts and licenses by the government or any person during any income year is income of such assessee for that year under the head "Income from other Sources".
11. **Cancellation of indebtedness [Section 19(11)]:** Benefit or advantage, whether convertible into money or not, derived by an assessee on account of cancellation of indebtedness during any income year is income of that year of such assessee under the head "Income from other Sources". However, this provision shall not be applicable in case of a benefit or advantage, of an assessee being an individual, not exceeding taka ten lakh resulting from the waiver of margin loan or interest thereof by a holder of Trading Right Entitlement Certificate (TREC) in respect of the assessee's investment in shares, debentures, mutual funds or securities transacted in the stock exchange.
12. **Managing agency commission [Section 19(12)]:** Managing agency commission including compensation for termination of agencies or any modification of the terms and conditions relating thereto, received by an assessee during any income year is his income for that year under the head "Income from other Sources".
13. **Lotteries, crossword puzzles etc. [Section 19(13)]:** Winning from lotteries, crossword puzzles, card games and other games of any sort or from gambling or betting received by an assessee in any income year is his income for that year under the head "Income from other Sources".
14. **Income from insurance business [Section 19(14)]:** Profits and gains derived in any income year from business of insurance carried on by a mutual insurance association computed in accordance with provisions of paragraph 8 of the Fourth Schedule is income of such association for that income year.
15. **Receipt back of loss, bad debt or expenditure and unpaid trading liability, etc. [Section 19(15)]:** When any amount of deduction which was allowed in the past for any loss, bad debt, expenditure or trading liability is subsequently received back, whether in cash or any other manner in the income year will be deemed as "Income from business or profession" for that income year. Benefit received on account of unpaid trading liability in any income year is deemed as income for that year from business or profession unless the same is considered as income under the provision of the next paragraph. Trading liability or any portion thereof remaining unpaid for three years after the expiration of the income year in which the deduction for such liability was allowed is deemed as "Income from business or profession" for the income year immediately following the expiry of the said three years.

Interest payable to any commercial bank, or Bangladesh Development Bank Limited or on account of share of profit payable to any bank run on Islamic Principles, though was not actually paid but was allowed deductions because of mercantile system of accounts, is not paid within three years after the expiry of the concerned year of deduction, shall, to the extent the same remains unpaid, be deemed to be business income for the year next following the said three years.

- 16. Income from sale of depreciated assets having been used for purpose of any business or profession [Section 19(16)]:** Where any building, machinery or plant having been used by an assessee for purpose of any business or profession carried on by him is disposed of during any income year and the sale proceeds thereof exceeds the written down value, so much of the excess as does not exceed the difference between the original cost and the written down value shall be deemed to be the income of the assessee for that income year classifiable under the head "Income from business or profession".
- 17. Income from sale of depreciated assets having been used for agricultural purpose [Section 19(17)]:** Where any machinery or plant exclusively used by an assessee for agricultural purposes has been disposed of in any income year and the sale proceeds thereof exceeds the written down value, so much of the excess as does not exceed the difference between the original cost and the written down value shall be deemed to be the income of the assessee for that income year classifiable under "Agricultural income"
- 18. Income from receipt of insurance, salvage or compensation moneys in respect of assets having been used for purpose of any business or profession [Section 19(18)]:** Where any insurance, salvage or compensation moneys are received in any income year in respect of any building, machinery or plant which having been used by the assessee for the purpose of business or profession is discarded, demolished or destroyed and the amount of such moneys exceed the written down value (WDV) of such assets, so much of the excess as does not exceed the difference between the original cost and the WDV less the scrap value shall be deemed to be the income of the assessee for that income year classifiable under "Income from business or profession".
- 19. Income from receipt of insurance, salvage or compensation moneys in respect of assets having been used for agricultural purpose [Section 19(19)]:** Where any insurance, salvage or compensation moneys are received in any income year in respect of any machinery or plant which having been used by the assessee exclusively for agricultural purpose is discarded, demolished or destroyed and the amount of such moneys exceed the written down value of such machinery or plant, so much of the excess as does not exceed the difference between the original cost and the written down value less the scrap value shall be deemed to be the income of the assessee for that income year classifiable under the head "Agricultural income".
- 20. Income from sale of asset of capital nature [Section 19(20)]:** Where an asset representing expenditure of a capital nature on scientific research within the meaning of section 29 (1) (xx) is disposed of during any income year, so much of the sale proceeds as does not exceed the amount of the expenditure allowed under the said clause shall be deemed to be the income of the assessee for that income year classifiable under the head "Income from business or profession".
- 21. Unpaid loan [Section 19(21)]:** Where any sum, or aggregate of sums not exceeding Tk. 500,000 is claimed to have been received as loan by an assessee, not being a company during any income year from any person, not being a banking company or a financial institution, otherwise than by a crossed cheque drawn on a bank, and has not been paid back in full within 3 years from the end of the income year in which it is claimed to have been received, the said sum or part thereof which has not been paid back, shall be deemed to be the income of the assessee for the income year immediately following

- the expiry of the said [3 years] and be classifiable as "Income from other sources".
Provided that where the loan referred to in this sub-section is paid back in a subsequent year, the amount so paid shall be deducted in computing the income in respect of that subsequent year.
- 22. Loan or gift received under some circumstances [Section 19(21A)]:** Where any sum is claimed to have been received by an assessee as loan or gift during any income year from a person who has transferred the sum within the period of limitation stipulated in the rule made under this Ordinance, from the initial capital of his business or profession shown in his return filed under Section 83A, the amount of such loan or gift so received by the assessee shall be deemed to be his income of the year in which such loan or gift was received and shall be classifiable under "Income from other sources".
- 23. Initial capital transferred within the period of restriction [Section 19(21B)]:** Where any sum, shown as initial capital of business or profession in return of income filed under section 82BB, is transferred by a person partly or fully from that business or profession within the period of limitation stipulated in the said section, the sum so transferred shall be deemed to be his income of the year in which such sum was transferred and shall be classifiable under the head "Income from other sources".
- 24. Unadjustable security money taken from tenant [Section 19(22)]:** When an owner of a house receives any sum from tenant which is not adjustable against rent, such shall be deemed as income for the income year in which it is received and be classified as "Income from house property". The amount may however be allocated for assessment for five income years at the option of the assessee. Further, when the sum or any part thereof is refunded in subsequent year, the sum or part thereof so refunded shall be deducted in computing the income of the assessee in respect of that income year.
- 25. Income from transfer of export quota by Garment Industry [Section 19(23)]:** Where during any income year a garment exporter assessee transfers any export quota or part thereof, export value of the quota so transferred i.e. 3% of the value under Rule 30(A) shall be deemed to be the income of the assessee for that income year and be classified under the head "Income from business or profession".
- 26. Equity capital received by a unlisted company other than through crossed check or bank transfer [Section 19(24)]:** Where a company, not listed with any stock exchange, receives paid up capital from any shareholder during any income year in any other mode excepting by crossed check or bank transfer, the amount so received as paid up capital shall be deemed to be the income of such company for that income year and be classifiable under the head "Income from other sources".
- 27. Loan taken by a company otherwise than by a crossed check or by bank transfer [Section 19(26)]:** Where an assessee, being a company, receives any amount as loan from any other person otherwise than by a crossed check or by bank transfer, the amount so received shall be deemed to be income of such assessee for that income year in which such loan was taken and shall be classified as "Income from other sources".
It is provided that where the loan or part thereof referred in this subsection is repaid in a subsequent income year, the amount so repaid shall be deducted in computing the income for that subsequent year.
- 28. Purchase or hire of motor car where the value exceeds 10% of the paid up capital [Section 19(27)]:** Where an assessee, being a company, purchases directly or hire one or more motor car or jeep and value of any motor car or jeep exceeds ten percent of its paid up capital, then fifty percent of the amount that exceeds such ten percent of the

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paid up capital shall be deemed to be the income of such assessee for that income year classified under the head "Income from other sources". *Provided that nothing in this sub-section shall be applicable to a loan or gift from spouse or parents if any banking or formal channel is involved in the process of such loan or gift.*

29. **Loan or gift taken by an assessee otherwise than by a crossed check or by bank transfer [Section 19(28)]:** Where an assessee, being an individual, receives any sum or aggregate of sums exceeding Tk. Five lakh as loan or gift from any other person otherwise than by a crossed check or by bank transfer, the amount so received shall be deemed to be the income of such assessee for that income year in which such loan or gift was taken and shall be classified under the head "Income from other sources".
30. **Defaulter in due payment for purchase by real estate business [Section 19(29)]:** Where an assessee, not being an assessee engaged in real estate business during any income year, purchases on credit any material for the purpose of construction of building or house property or its unit and fails to pay the sum or any part thereof representing the liability in respect of such purchase, the sum or any part thereof, which has not been paid within two years from the end of the income year in which the purchase was made, shall be deemed to be the income of the assessee for the income year immediately following the expiry of the said two years and be classifiable under the head "Income from other sources".
31. **Unspent portion of repair and maintenance expense of house property [Section 19(30)]:** Where an assessee, in the course of any proceedings under this Ordinance, is found to have any sum or part thereof allowed or deducted but not spent in accordance with the provision of clause (h) of sub-section (1) of section 25 of this Ordinance (allowable repair and maintenance expense), such unspent sum or part thereof shall be deemed to be the income of such assessee for that income year classifiable under the head "Income from house property".
32. **Difference in the amount of the exempted incomes shown in revised return and the original return [Section 19(31)]:** Where an assessee files a revised return or an amended return under sections 78, 82BB or 93 and shows in such revised return or amended return any income that is subject to tax exemption or a reduced tax rate, so much of such income as exceeds the amount shown in the original return shall be deemed to be income of the assessee for that income year classifiable under the head "Income from other sources".

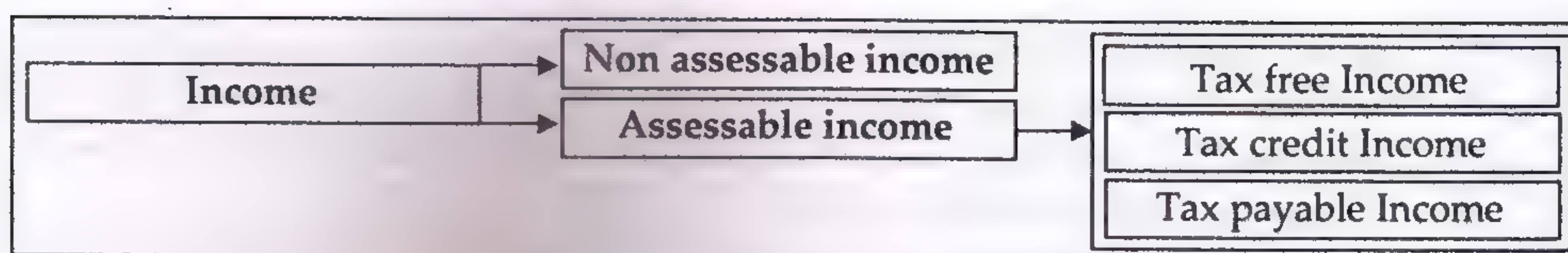
5.6.2 Foreign Income:

According to Section 17(1)(a) of the ITO, 1984 all those incomes which accrue or arise outside Bangladesh is included under the head "Foreign Income". In case of resident, it is included in his total income and in case of non-resident it is excluded.

5.7 CLASSIFICATION OF INCOME – ON THE BASIS OF ASSESSMENT

As it has been seen earlier, no clear definition has been given in the ITO, 1984; rather what to be included and not to be included under the head income has been explained. According to the provisions of the ITO, 1984, on the basis of chargeability of tax we can classify income in the following way:

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5.7.1 Non-assessable income:

Those income which are not included in the computation of total income of an assessee, are non-assessable income. A list of such income is given under Section 44(1), in Part A of the Sixth Schedule of the ITO, 1984. According to Section 44(4), the government, by notification in the Official Gazettee, can make necessary inclusion or exclusion of incomes in the list considered to be non-assessable. For example, income from interest on Deposit Pension Scheme; Pension; Gratuity etc. are examples of non-assessable incomes.

5.7.2 Assessable income:

Assessable incomes are those incomes, which are included in the determination of the total income of an assessee. For example, receipt of Tk. 20,000 as bonus is assessable and hence included under total income. The total of assessable incomes from various sources is known as total income of an assessee. Assessable incomes can again be classified into:

(a) Tax-free income, (b) Tax credit income, and (c) Tax payable income

(a) **Tax-free income:** Tax-free incomes are those incomes, which are included in the determination of the total income of an assessee for computing total income and applicable tax rates. However, tax relief or rebate is allowed on average rate on such income. According to Section 44(2)(a) and Para 15 & 16 of the Sixth Schedule of the ITO, 1984, income from the following two sources are considered as tax-free income as tax rebate is allowed on such income at an average rate. They are: Income from partnership firm if tax has already been paid by the firm, income from Association of Persons on which tax has already been paid by the association. Average tax rate and rebate on tax free income is calculated in the following manner:

$$\begin{aligned} \text{Average tax rate} &= \text{Total tax} \div \text{Total income} \times 100 \\ \text{Rebate on tax free income} &= (\text{Total tax free income} \times \text{average tax rate}) \text{ or} \\ \text{Rebate on tax free income} &= (\text{Total tax} \div \text{Total income}) \times \text{Total tax free income} \end{aligned}$$

(b) **Tax credit income:** Those incomes, which are included in the determination of the total income of an assessee for computing total income and increasing applicable tax rates. This is also known as investment allowance for tax rebate. As per section 44(2), tax rebate is allowed of an amount equal to 10% to 15% of the sums eligible for tax rebate. However as per Section 44(3), maximum amount eligible for tax rebate would be restricted to the lower of 25% of the total income excluding any income for which a tax exemption or a reduced rate is applicable under section 44(4) or any income from any source or sources mentioned in Section 82C(2)(1) or Tk. 1,50,00,000.

(c) **Tax payable income:** This is that part of total income for which the taxpayer actually pays tax. The amount is equal to the excess of assessable income over tax free and tax credit income. For example, an assessee's total income is Tk. 380,000 of which income from firm Tk. 20,000 and tax credit income / as investment allowance for tax rebate Tk. 30,000. In this case, tax payable income will be $[380,000 - 20,000 - 30,000] = \text{Tk. } 330,000$.

5.8 EFFECTS OF CLASSIFICATION OF INCOME ON ASSESSMENT

Classification of income for assessment purpose has a significant role on the determination of total taxable income, investment allowance, tax rate and tax liability. The effects of classification are:

1. **Non-assessable income:** As non-assessable income is not included in the computation of total income, it minimizes the volume of total taxable income and the tax liability. If an assessee's (other than company & local authority) annual total income is less than the minimum taxable limit i.e. Tk. 250,000 (in case of women, elderly citizens who are more than 65 years old Tk. 300,000, for disable person Tk. 400,000 and for gazette wounded freedom fighters Tk. 425,000), he is not liable to pay tax on his income.
2. **Assessable income:** Assessable incomes are those incomes, which are included in the determination of the total income of an assessee. If an assessee's (other than company & local authority) annual total income is more than the minimum taxable limit i.e. Tk. 250,000 (in case of women, elderly citizens who are more than 65 years old Tk. 300,000, for disable person Tk. 400,000 and for gazette wounded freedom fighters Tk. 425,000), he is liable to pay tax on his income at applicable rates. Assessable income is classified into three categories:
 - a) **Tax-free income:** These types of income are included in total income but tax rebate is granted on these incomes at an average rate. As these items increase the amount of taxable income and initial tax liability is computed using maximum rates which are more than the average tax rate, it increases the actual tax burden of the assessee.
 - b) **Tax credit income / Investment allowance:** An assessee is eligible to receive 10% to 15% tax rebate on the allowable investment which lessens the tax burden of the assessee.
 - c) **Tax payable income:** This is the amount ultimately for which an assessee pays the tax. This amount helps to determine the tax payable amount of the assessee.

In the following table, we can see the effects of classification of income on assessment:

Classification of income	Effect on Total Income	Effect on tax liability / tax rate
Non-assessable Income	Not included	decreases
Assessable income	Included	Increase
Tax-free income	Included which increases total income	Increase the tax liability & allows rebate at an average rate
Tax credit income	Increases total income	Decrease tax through rebate.
Tax payable income	included	Actual tax liability depends on it

5.8.1 Distinction between Non-assessable Income and Tax credit Income:

Distinctions between Non-assessable Income and Tax-credit Income are as follows:

Area of Difference	Non-assessable Income	Tax credit Income
Effect on total income	It is not included in total income	It is included in total income
Tax rebate	Not allowed on this income.	Allowed at the rate of 10-15%.
Effect on tax liability	Does not increase tax liability.	Increases tax liability.
Impact on tax rate	No effect	Increases the overall tax rate.

5.8.2 Distinction between Non-assessable Income and Tax-free Income:

Distinctions between Non-assessable Income and Tax-free Income are depicted below:

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Area of Difference	Non-assessable Income	Tax-free Income
Effect on total income	Not included in total income.	Included in total income
Tax rebate	Not allowed on this income.	Allowed at average rate
Effect on tax liability	Does not increase tax liability.	Increases tax liability.
Impact on tax rate	No effect	Increases overall tax rate.
Minimum tax limit	No influence on tax limit	Influences tax limit.

5.8.3 Distinction between exemption and deduction:

If an income is exempt from tax, it is not included in the computation of income. Exemption can never exceed the amount of income. Deduction is generally given from income chargeable to tax. Deduction can be less than or equal to or more than amount of income. If amount deductible is more than the amount of income, the resulting amount will be taken as loss.

5.9 SOURCES OF INCOME

Total income of an assessee is classified and computed based on the following 7 sources [Sec 20]:

1. **Salaries [Section – 21]:** According to normal meaning, salary means periodical payment made for work to an employee from an employer for the services rendered to him. According to Section 2(58) of the ITO, 1984, Salary includes:
 - (a) any pay or wages;
 - (b) any annuity, pension or gratuity;
 - (c) any fees, commission, allowances, perquisites or profits in lieu of, or in addition to salary or wages;
 - (d) any advance of salary;
 - (e) any leave encashment.
2. **Income from Interest on Securities [Section – 22]:** An assessee may invest his fund in various types of securities like both government and commercial securities. The interest received from those securities will be taxable according to the ITO, 1984. According to Section 22 of ITO, 1984, the following incomes of an assessee shall be classified and computed under the head 'Interest on Securities':
 - (a) interest receivable by the assessee on any security of the Government or any security approved by government; and
 - (b) interest receivable by him on debentures or other securities of money issued by or on behalf of a local authority or a company
3. **Income from House Property [Section – 24]:** The owner of house property, legal or beneficial, is liable to pay tax under this section. In this regard, income must come from the house property and its adjacent premises which is not used for the purpose of business or profession or for personal purpose.
4. **Agricultural Income [Section – 26]:** According to Sec 2(1) "agricultural income" means-
 - (a) any income derived from any land in BD and used for agricultural purposes –
 - (i) by means of agriculture; or
 - (ii) by the performance of any process ordinarily employed by a cultivator to render the produce of such land fit to be taken to market; or
 - (iii) by the sale of produce of the land raised by the cultivator for which only processing to render the produce marketable, has been performed; or

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- (iv) by granting a right to any person to use the land for any period; or
- (b) It also includes any income derived from any building which-
 - (i) is occupied by the cultivator of such land where any process is carried on to render the produce of land marketable.
 - (ii) is on or in the immediate vicinity of such land, and
 - (iii) is required by the cultivator for dwelling or storehouse or other house by reason of his connection of such land.
- 5. **Income from Business or Profession [Section – 28]:** Income from business and profession is also included in total income. According to Sec. 2(14), "business" includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture; as per Sec. 2(49), "profession" includes a vocation;
- 6. **Capital Gain [Section – 31]:** According to Section 31 of the ITO, 1984, tax shall be payable by an assessee under the head "Capital Gains" in respect of any profits and gains arising from the transfer of a capital asset and such profits and gains shall be deemed to be the income of the income year in which the transfer took place.
- 7. **Income from Other Sources [Section – 33]:** The incomes other than from salary, interest on securities, house property, Agricultural income, business or profession and capital gains will be included under this head. In case such income does not fit in anywhere under the first six heads, it will be considered under the head "Income from Other Sources". But according to Income Tax Rule – 24 it has been seen that in the "Specimen Form of Return of Income under the ITO, 1984 – Part II" total 10 heads have been given. Among those the additional heads are Share of profit in a firm, Income of the spouse or minor child as applicable u/s 43(4) and foreign income.
- 8. **Share of profit in a firm:** If an assessee is a partner of a partnership firm, the income from the firm will be shown under this head.
- 9. **Income of the spouse or minor child:** According to Section 43(4) and 43(5), income of the spouse or minor child is to be included in the total income, provided that the spouse or minor child doesn't submit separate return.
- 10. **Foreign income:** According to Section 17(1)(a), all those incomes which accrue or arise outside Bangladesh is included under the head "Foreign Income". In case of resident, it is included in his total income and in case of non-resident it is excluded.

5.10 CASUAL AND NON-RECURRING INCOME

The word "Casual" means "subject to or produced by chance; accidental; fortuitous; coming at uncertain times; not to be calculated on; unsettled". The term "Non-recurring" does not mean that the receipt should happen only once and be isolated one and it should not happen again at all. Rather it means there is no right for recipient to expect its recurrence. Although casual and non-recurring incomes are not regular source of income, some casual and non-recurring incomes are considered as taxable. In this regard, we can consider the following definitions:

- a) **Casual income:** These are the incomes about which the assessee remains uncertain before it is received. Such as, Income from lottery, cross-word competition, betting etc.
- b) **Non-recurring income:** These are the incomes which arise at an irregular interval.

Generally, voluntary payments, personal testimony, gifts or regular allowances are some examples of casual and non-recurring income. In general, to be casual and non-recurring income the following characteristics should be there:

- 1. It is a sudden receipt and the assessee is uncertain about its appearance.

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2. It is not a capital gain as per Section 31.
3. It is not earned from business or profession as per Section 28.
4. It is not perquisite in addition to salary.

5.10.1 Examples of Assessable Casual and Non-recurring Income:

1. Income from Lottery, Cross-word and horse-race competition.
2. Honorarium received as middleman to settle a dispute.
3. Reward from the employer for extra-ordinary effort.
4. Profit on sale of goods through auction.
5. Remuneration of Professional actors, players, dancers, musicians, singers etc.
6. Reward received by a lawyer from the client for winning the case.
7. Tips of Hotel Stewards.

5.10.2 Examples of Non-assessable Casual and Non-recurring Income:

1. Gift received on in Birthday or Marriage anniversary.
2. Gift against affection or love.
3. Receipt of money taken from the streets with no claim.
4. Honorarium of Jury.
5. Reward of Prize Bond or Gift Check.

5.11 NON-ASSESSABLE/TAX-EXEMPTED INCOMES

Certain incomes are totally exempt from tax. Incomes specified in Part A of the Sixth Schedule of the Income Tax Ordinance, 1984 are exempt and excluded from the computation of total income subject to the limits, conditions and qualifications mentioned therein. Besides these specified items of income, the government may make any exemption, reduction in rate or other modifications in respect of tax in favor of any class of income or in regard to the whole or any part or the income of any class of persons [Section 44(4)].

Notwithstanding anything contained in clause (b) of section 44(4) or any other section in Chapter VI of ITO 1984, the income of a person for the relevant income year shall not be (i) **exempted from tax**; or (ii) **be subject to reduced rate of tax**; in an assessment year if the person fails to submit the return of income, as required under section 75 [Section 44(5)(a)];

Any disallowance of expenditure under section 30, in calculating the income of a source or of a person that is exempted from tax or is subject to a reduced rate of tax, shall be treated as income for that source or of that person, as the case may be, and tax shall be payable on such income at the regular rate [Section 44(5)(b)].

5.11.1 Non – assessable/Tax – exempted incomes under Section 44(1) – Part A of the Sixth Schedule, ITO, 1984:

Followings are exempted from tax as per Part A of the Sixth Schedule of the ITO, 1984:

1. **Income from property held under trust [Para – 1]:** Any income derived from house property held under trust or other legal obligation wholly for religious or charitable purpose and if part of the house is so held, the income as set apart for application. However, above provisions are not applicable to an NGO registered with NGO Affairs Bureau. However, where any such income is not applied for charitable or religious purposes during the income year, following conditions should be complied with to get the tax exemptions:

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- a) There should be given a notice in writing to the DCT specifying purposes for which the income is being accumulated or set apart. But the period of such accumulation should not be more than 10 years.
- b) The money so accumulated or set apart is either invested in any Government Security or deposited in any post office Bank Savings Account or deposited in any account with scheduled bank of which fifty one percent or more shares are held by the government.
2. **Income from micro credit operation of NGOs [Para – 1A]:** Any service charge derived from operation of micro credit by an NGO registered with NGO Affairs Bureau. *For the purpose of this paragraph, "service charge" means any financial charge or interest or share of profit, called by whatever name, paid or payable by the loan recipient for the amount borrowed under micro credit programme from the nongovernment organization.*
3. **Voluntary contributions received by the Religious or Charitable Institutions [Para – 2]:** Any voluntary contributions received by a religious or charitable institution. It would not be applicable to a private religious trust which does not ensure public welfare.
4. **The income of a Local government [Para – 3]**
5. **Income of provident and other funds [Para – 4]:** Any income accruing to/derived by –
 - a) a provident fund established under the Provident Fund Act, 1925.
 - b) A workers participation fund established under Bangladesh Labor Act 2006 (Act No. XLII of 2006), subject to any such conditions as may be prescribed.
6. **Special allowances [Para – 5]:** Any special allowance, benefit or perquisite specifically granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit.
7. **Income received by the trustees on behalf of specified funds [Para – 6]:** Any income received by the trustees on behalf of a recognized provident fund, an approved superannuation fund or pension fund and an approved gratuity fund.
8. **Income of employees of Foreign Missions [Para – 7]:** Any income received by the following persons:
 - a) Ambassadors, High commissioners, envoys, ministers, charge de affairs, commissioners, counselors, consul de carriere, secretaries, advisors or attaché of an embassy, high commission, legation or commission of a foreign State.
 - b) Trade commissioners or other official representatives of foreign states, if the official salary of the corresponding officials of Bangladesh Government enjoys a similar exemption in that foreign country.
 - c) Staff members or other officials employed in the offices aforesaid provided they are not engaged in any business or profession or other employment.
9. **Pension [Para – 8]:** Any pension due to, or received by, an assessee.
10. **Dividend [Para – 11A]:** Income from dividend received from a company listed in any stock exchange in Bangladesh up to twenty five thousand taka.
11. **Income from newly Constructed House [Para – 14]:** Income from a newly constructed residential house subject to stipulated conditions and limits as prescribed in paragraph 14 of Part A of the Sixth Schedule of the ITO, 1984.
12. **Share of Capital gains of a partner of a firm [Para – 18]:** Any income received by a partner out of capital gains on which tax has been paid by the firm.
13. **Income of a member of a Hindu Undivided Family (HUF) [Para – 19]:** Any income received by a member of HUF out of income of the said family.

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14. **Gratuity [Para – 20]:** Any income up to taka two crore fifty lakh received by an assessee as gratuity.
15. **Any payment received from Provident and other funds [Para – 21]:** Payment from:
 - a) A provident fund to which the Provident Funds Act, 1925 applies.
 - b) A recognized provident fund, subject to any such limits as may be prescribed.
 - c) An approved superannuation fund, subject to any such conditions and limits as may be prescribed.
 - d) A workers participation fund established under Bangladesh Labor Act 2006 (Act No. XLII of 2006) to any person not exceeding Tk.50,000 notwithstanding anything contained in any other law for the time being in force regarding tax exemption of such payment.
16. **Income from Mutual or Unit fund [Para – 22A]:** Income from a mutual fund or a Unit fund up to Tk. 25,000. So, not only dividend, any type of income from a mutual fund will be considered here e.g. fixed income mutual/unit fund.
17. **Interest on Tax free government securities [Para – 24]:** Any interest classifiable under “Interest on securities” receivable by an assessee on any security of the Government, which is issued with the condition that interest thereon, shall not be liable to tax.
18. **Income from various bonds [Para – 24A]:** Any income received by an assessee from Wage earners development bond, US dollar premium bond, US dollar investment bond, Euro premium bond, Euro investment bond, Pound sterling investment bond or Pound sterling premium bond.
19. **Interest on the balance in a Recognized Provident Fund [Para – 25]:** Interest on the accumulated balance of an employee in a recognized provident fund not exceeding 1/3 of the salary of the employee for the concerned year and it is allowed at 14.50% rate.
20. **Payment received on Voluntary retirement [Para – 26]:** Amount received by an employee of a Government organization, a local authority, an autonomous or semi-autonomous body including the units or enterprises controlled by it, on a voluntary retirement scheme approved by the government.
21. **Income of indigenous hillman [Para – 27]:** Income received from economic activities by indigenous Hillman in the hill districts of Rangamati, Bandarban and Khagrachari.
22. **Income from export business [Para – 28]:** An amount equal to 50% of the income of an assessee other than a company registered outside Bangladesh derived from export business excepting the assessee who are enjoying tax exemption or reduction thereon by any notification.
23. **Agricultural income [Para – 29]:** Agricultural income upto Tk. 200,000 of an individual assessee whose only source of income is agriculture.
24. **Interest on pensioners’ savings certificate or wage earners bond [Para – 32A]:** Any sum or aggregate of sums received as interest from pensioners’ savings certificate where the total accumulated investment at the end of the relevant income year in such certificate does not exceed Tk. 500,000.
25. **Income from IT business [Para – 33]:** Any income derived from the following business of a person being a resident or a non-resident Bangladeshi for the period from the first day of July, 2008 to the thirtieth day of June, 2024 on the conditions that the person shall file income tax return in accordance with the provisions of section 75-

Nature of Businesses: Software development, Software or application customization, Nationwide Telecommunication Transmission Network (NTTN), Digital Content Develop –

-ment and management, Digital animation development, Website development, Web Site Services, Web listing, IT process outsourcing, Website hosting, Digital graphics design, Digital data entry and processing, Digital data analytics, Geographic Information Services (GIS), IT support and software maintenance service, Software test lab services, Call center service, Overseas medical transcription, Search engine optimization services, Document conversion, imaging and digital archiving, Robotics process outsourcing, Cyber security services.

26. **Income from fisheries, poultry etc. [Para – 34]:** Subject to the following conditions, any income from fisheries, poultry, production of seeds, marketing of locally produced seeds, cattle farming, dairy farming, horticulture, frog farming, mushroom farming, floriculture, sericulture for the period from July 01, 2008 to June 30, 2011-
- (a) If such income exceeds Tk. 150,000, the person shall invest an amount not less than ten percent of the said income in the purchase of bond or securities issued by the Government within six months from the end of the income year and hold such bond or securities till maturity of such bond or securities;
 - (b) The person shall file income tax return in accordance with the provisions of Section 75(2)(c) of the ITO, 1984; and
 - (c) No such income shall be transferred within five years from the end of the income year: provided that income from fisheries as mentioned in this paragraph shall not apply to a company.
27. **Income from export of handicrafts [Para – 35]:** Any income derived from the export of handicrafts for the period from July 01, 2008 to June 30, 2019.
28. **Tax paid by the government on behalf of a petroleum company [Para – 36]:** Any amount paid by the government as tax on behalf of a petroleum exploration company engaged in exploration of petroleum products in Bangladesh under Production Sharing Contract (PSC) with the Government of Bangladesh.
29. **Income of agricultural educational activities [Para – 37]:** Income of any private Agricultural College or University derived from agricultural educational activities.
30. **Income of Building with specific characteristics [Para – 38]:** Any income derived from any building, not less than 5 storied, having at least 10 flats, constructed at any time between 1.07.09-30.06.14 (both days inclusive), for 10 years from the date of completion of construction of the building, if it is situated in any area of Bangladesh other than the areas of City Corporation, Cantonment Board, Tongi Upazila, Narayanganj Paurashaba, Gazipur Paurashaba and any Paurashaba under Dhaka district.
31. **Income of SME [Para – 39]:** Income derived from any Small and Medium Enterprise (SME) engaged in production of any goods and having an annual turnover of not more than taka thirty six lakh. Provided that the person shall file income tax return in accordance with the provisions of Section 75.
32. **Income from Zero Coupon Bond [Para – 40]:** Any income derived from Zero Coupon Bond (ZCB) received by a person other than Bank, Insurance or any Financial Institution, subject to the following conditions:
- (a) that the ZCB is issued by Bank, Insurance or any Financial Institution with prior approval of Bangladesh Bank and Securities and Exchange Commission.
 - (b) that the ZCB is issued by any institution other than Bank, Insurance or any Financial Institution with prior approval of Securities and Exchange Commission.

- 33. Income from poultry farming [Para – 42]:** Subject to the following conditions, any income from poultry farming for the period from July 01, 2011 to June 30, 2015-
- (a) If such income exceeds Tk. 150,000 an amount not less than 10% of the said income shall be invested in government bonds or securities within six month from the end of the income year;
 - (b) The person shall file income tax return in accordance with the provisions of Section 75(2)(c) of the ITO, 1984; and
 - (c) No such income shall be transferred by way of gift or loan within five years from the end of the income year.
- 34. Income from Capital gain arising from transfer of stocks and shares by non-resident [Para – 43]:** Any profits and gains under the head “Capital Gains” arising from the transfer of stocks or shares of a public company as defined in the Companies Act, 1994 listed in any stock exchange in Bangladesh of an assessee being a non-resident subject to the condition that such assessee is entitled to similar exemption in the country in which he is a resident. [SRO 59-AIN/IT/2012 dated 28.02.2012]
- 35. Income from Cinema hall or Cineplex [Para – 44]:** An amount of income derived from cinema hall or Cineplex which starts commercial exhibition between 1.7.12 – 30.06.19, beginning with the month of commercial exhibition and at the rate specified below:

Specified Areas	Total period of exemption	Period of Exemption	Rate of Exemption
Dhaka, Mymensingh or Chittagong divisions (excluding Rangamati, Bandarban and Khagrachari districts)	5 years	For the first 2 years (1 st and 2 nd year)	100% of income
		For the next 2 years (3 rd and 4 th year)	50% of income
		For the last 1 year (5 th year)	25% of income
Rajshahi, Khulna, Sylhet, Rangpur and Barisal divisions and Rangamati, Bandarban and Khagrachari districts	10 years	For the first 3 years (1 st , 2 nd & 3 rd year)	100% of income
		For the next 3 years (4 th , 5 th & 6 th year)	50% of income
		For the next 4 years (7 th , 8 th , 9 th & 10 th year)	25% of income

- 36. Income from industrial undertaking engaged in the production of rice bran oil [Para – 45]:** An amount of income derived by an industrial undertaking engaged in the production of rice bran oil and commencing commercial production between the July 1, 2012 and thirtieth day of June, 2019 for the period, and at the rate specified below:

Specified Areas	Total period of exemption	Period of Exemption	Rate of Exemption
Dhaka, Mymensingh or Chittagong divisions (excluding city corporation area and Rangamati,	5 years	For the first 2 years (1 st and 2 nd year)	100% of income
		For the next 2 years (3 rd and 4 th year)	50% of income

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Bandarban and Khagrachari districts)		For the last 1 year (5 th year)	25% of income
Rajshahi, Khulna, Sylhet, Rangpur and Barisal divisions (excluding city corporation area) and Rangamati, Bandarban and Khagrachari districts	10 years	For the first 3 years (1 st , 2 nd & 3 rd year)	100% of income
		For the next 3 years (4 th , 5 th & 6 th year)	50% of income
		For the next 4 years (7 th , 8 th , 9 th & 10 th year)	25% of income

37. **Income from production of corn/maize or sugar beet [Para – 46]:** An amount equal to 50% of income of an assessee derived from the production of corn/maize or sugar beet;
38. **Income of an assessee donated to a fund established under Prime Minister's Education Assistance Fund [Para – 47]:** Income of an assessee donated in an income year to any fund established by or under the provisions of the Trust of Prime Minister's Education Assistance Act, 2012 (Act No. 15 of 2012) subject to a maximum of-
- 20% of income of a company or taka eight crore, whichever is less;
 - lower one of 20% of income of an assessee other than a company or Tk. 1 crore.
39. **Foreign Remittance [Para – 48]:** Any income earned in abroad by an individual assessee being a Bangladeshi citizen and brought any such income into Bangladesh as per existing laws applicable in respect of foreign remittance.
40. **Income of an assessee donated to girls school or college [Para – 49]:** Income of an assessee donated in an income year by a crossed cheque or bank transfer to any girls' school or girls' college approved by the Ministry of Education of the government.
41. **Income of an assessee donated to Technical and Vocational Training Institute [Para – 50]:** Income of an assessee donated in an income year by a crossed cheque or bank transfer to any Technical and Vocational Training Institute approved by the Ministry of Education of the government.
42. **Income of an assessee donated to any national level institution engaged in R&D of agriculture, science, technology and industrial development [Para – 51]:** Income of an assessee donated in an income year by a crossed cheque or bank transfer to any national level institution engaged in the Research & Development (R&D) of agriculture, science, technology and industrial development.
43. **Income received by educational institutions [Para – 52]:** Any income, not being interest or dividend classifiable under the head "Income from other sources", received by any educational institution, if it –
- is enlisted for Monthly Pay Order (MPO) of the Government;
 - follows the curriculum approved by the Government;
 - is governed by a body formed as per Government rules or regulations.
44. **Income received by public universities or professional institutes [Para – 53]:** Any income, not being interest or dividend classifiable under the head "Income from other sources", received by any public university or any professional institute established under any law and run by professional body of Chartered Accountants or Cost and Management Accountants or Chartered Secretaries.
45. **Income from alternative investment fund recognized by [Para – 54]:** Any income from an alternative investment fund recognized by the Bangladesh Securities and Exchange Commission.

46. **Income of BSEC [Para – 55]:** Any income of the Bangladesh Securities and Exchange Commission for the Assessment Years starting from the first day of July, 2017 to the thirtieth day of June, 2022.
47. **Honorarium or allowance or welfare allowance received from Bangladesh Freedom Fighter Welfare Trust / Government [Para – 56]:** Any amount in the nature of an honorarium or allowance from Bangladesh Freedom Fighter Welfare Trust or any welfare allowance received by any person from the Government.
48. **Any reward from Government [Para – 57]:** Any reward received by any person from the Government.
49. **Any reward of elderly care home [Para – 58]:** Any income derived from the operation of an elderly care home.

5.11.2 Tax – exempted incomes as per different SRO's:

1. Income of Unit Fund of the Investment Corporation of Bangladesh [SRO 187-AIN-IT/1983/ dated 12.06.1983]
2. Income of any welfare fund established for the welfare of workers employed in tea sector [SRO 239-AIN-IT/1987dated 29.09.1987]
3. Interest on Deposit Pension Scheme of a Bank approved by the government [SRO 89-AIN-IT/2003/IT/2003 dated 02.04.2003]
4. Income from Bond not exceeding Tk. 25,000 issued by any government, semi-government or autonomous body engaged in electricity generation and distribution [SRO 66/ Law/2004 dated 13.03.2004]
5. Income of Stock Exchanges in Bangladesh upto certain limit [SRO 157-L/IT/2014 dated 26.06.2014]
6. Income of Army Welfare Trust established for the welfare of the Ex-Army personnel, their children and dependents [SRO 23/ Law/2007 dated 22.02.2007]
7. Income of National Heart Foundation of Bangladesh, Bangladesh Diabetic Society, Bangladesh Diabetic Foundation, Foundation of Research on Education Planning and Development (FREPD) [SRO 182/ Law/2006 dated 18.07.2006]
8. Income of private sector power generation company for 15 years [SRO 188-L/IT/2009 dated 01.07.2009 later modified by SRO 235-L/IT/2011 dated 06.07.2011; SRO 211-L/IT/2013 dated 01.07.2013; SRO 213-L/IT/2013 dated 01.07.2013]
9. Income of Welfare Fund established under any law for the time-being in force for the welfare of the Tea Garden Workers [SRO 239-L/87 dated 18.10.1993]
10. Receipt of Bonus share as dividend [Section 2(34)]
11. Income of the District Sports Association, Divisional Sports Association, National Sports Association and National Sports Council [SRO 298-L/IT/2000 dated 28.09.2000]
12. Scholarships to meet the cost of education. [SRO 454-L/80 dated 31.12.1980]
13. Monetary award granted from the Cultural Heritage Fund for outstanding contribution in the country's art and culture. [SRO 39-L/82 dated 19.01.1982]
14. Interest accrued on non-resident foreign currency deposit account. [SRO 415-L/82 dated 13.12.1982]
15. Certain casual and non-recurring incomes like gift received on occasion of marriage, birthday, anniversary, gift for personal relation and affection etc.
16. Ression received by army persons. [SRO 454-L/80]
17. Income from public universities [SRO 268/AIN/IT/2010 dated 01.07.2010]

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18. Tax on tax amount paid by the employers' against salary paid to employees, if employer pays the tax, such amount will not be included as an income to the employee [SRO 182-AIN/99]
19. Income of District Sports Association, Divisional Sports Association, national Sports Federation and National Sports Council [SRO 298-AIN/2000]
20. Income of Local Development Network Institutions established by Aga Khan Development Network (e.g. Aga Khan Foundation, Aga Khan Health Service, Aga Khan Education Service etc.) [SRO 210-AIN/2001 dated 26.07.2001].
21. Monetary award granted to any government employee from the government for outstanding contribution in the official duties to the government [SRO 245-AIN/IT/2001 dated 29.08.2001].
22. Income of any foreign faculty members, teaching, research or library staff members, administrators, officers, experts, technicians, visiting personnel employed in Asian University for Women [SRO 17-AIN/2009 dated 02.02.2009]
23. Income from the Endowment Fund of National Disable Development Foundation upto June 30, 2019 [SRO 91-AIN/2009 dated 27.05.2009 later revised by SRO 187-AIN/IT/2014 dated 01.07.2014]
24. Income of Bangladesh Retired Govt. Servants Welfare Association registered in Social Welfare Department (Reg. No. 21/1976) [SRO 90-AIN/IT/2009 dated 27.05.2009]
25. Salary income of foreign nationals working in International Committee of Redcross (ICRC), Bangladesh. [SRO 80-AIN/IT/2010 dated 15.03.2010]
26. Income of Muktiuddho Jadughor, 5, Segunbagicha, Dhaka [SRO 117-AIN/IT/2010 dated 21.04.2010]
27. Income of Bangladesh Retired Governments' Servants Welfare Association registered under Department of Social Welfare (Reg: 21/1976) [SRO 90-AIN/2009 dated 27.05.2009]
28. Income of Political Parties registered by Bangladesh Election Commission [SRO 330-AIN/IT/2011 dated 26.10.2011]
29. Income of Mutual Fund Issuer Person from that Mutual Fund effective from 01.07.2011 [SRO 333-AIN/IT/2011 dated 27.10.2011]
30. Any gain from sale of shares of listed companies will be tax free in the hand of non-resident provided that such assessee is entitled to similar tax exemption in his own country [SRO 59-AIN/IT/2012 dated 28.02.2012]
31. Any income of commerce ministry approved Federation of Chamber of Commerce and Industries (except income from interest, income from house property and income from business) [SRO 210-AIN/IT/2013 dated 01.07.2013]
32. Income of "Bisha Shahitto Kendro" [SRO 182-AIN/IT/2013 dated 10.06.2013]
33. Income of Anjuman Mufidul Islam earned from social welfare service activities [SRO 403-AIN/IT/2012 dated 05.12.2012]
34. Salary income of the foreign workers engaged in Dhaka Elevated Expressway PPP Project earned from the project for 3 years from the SRO issuance date [SRO 290-AIN/IT/2012 dated 13.08.2012]
35. Income of Khaja Yunus Ali Medical College and Hospital, Enayetpur, Chowhali, Bangladesh upto 30th June 2017 [SRO 119-AIN/IT/2010 dated 21.04.2010 later revised by SRO 290-AIN/IT/2013 dated 03.09.2013]
36. Income earned from charitable and service activities by Bangabir General Osmani Memorial Trust [SRO 291-AIN/IT/2013 dated 03.09.2013]

37. Dividend income of the foreign investor of Coal Based 1320 Megawatt Independent Power Producer (IPP), Rampal, Bagerhat for 10 years from the date of starting commercial operation [SRO 266-AIN/IT/2013 dated 30.07.2013]
38. Income of the organization named “Surer Dhara” earned from the tuition fee of music training conducted under the activities of “Music for Development” [SRO 264-AIN/IT/2013 dated 30.07.2013]
39. Income of Private Power Generation companies engaged in electricity generation subject to fulfillment of certain conditions [SRO 212, 213-AIN/IT/2013; SRO 222-AIN/IT/2013; SRO 211-AIN/IT/2013 dated 01.07.2013, SRO 79-AIN/IT/2017 dated 19.04.2017]
40. Income of Dr. Monsuruddin Girls College (College Code: 7458), Hoshimpur, Kochua, Chandpur for 10 years effective from the date of the SRO issue [SRO 187-AIN/IT/2013 dated 13.06.2013]
41. Interest income of “Sweden-Bangladesh Trust Fund” from Fixed or Savings deposit [SRO 181-AIN/IT/2013 dated 10.06.2013]
42. Income of Bangladesh Lions Foundation earned from non-profit and medical service activities [SRO 06-AIN/IT/2013 dated 15.01.2013]
43. Income of Pally Karmo Sohaiok Foundation (PKSF) [SRO 42-AIN/IT/2015 (23.02.2015)]
44. Income of Human Development Foundation up to June 30, 2016 from the date of SRO issuance [SRO 106-AIN/IT/2015 dated 27.05.2015]
45. Income of Society for Assistance to Hearing Impaired Children (SAHIC) [SRO 115-AIN/IT/2015 dated 06.06.2015]
46. Income donated to the philanthropic institution named “Probin Kallyan Songstha” by an assessee [SRO 116-AIN/IT/2015 dated 04.06.2015]
47. Income earned from providing medical services only by Chittagong Mother & Children Hospital [SRO 117-AIN/IT/2015 dated 04.06.2015]
48. Income earned from providing medical services only by Kidney Foundation Hospital & Research Institute [SRO 160-AIN/IT/2015 dated 04.06.2015]
49. Income earned only from providing medical services of THE ENT AND HEAD-NECK CANCER HOSPITAL AND INSTITUTE [SRO 320-AIN/IT/2015 dated 01.11.2015]
50. Income of Lolit Mohan-Dhonoboti Memorial Foundation [SRO 12-AIN/IT/2016 dated 21.01.2016]
51. Income of Prime Minister’s Education Assistance Trust [SRO 11-AIN/IT/2016 dated 21.01.2016]
52. The portion of the income of an assessee that is contributed to “Suchona Foundation” for the welfare of disable persons [SRO 87-AIN/IT/2016 dated 06.04.2016]
53. The foreign workers working in the companies established in accordance to Bangladesh Economic Zone Act, 2010 [SRO 298-AIN/IT/2015 dated 08.10.2015]
54. Certain benefits for the Developer, Company operating in accordance to Bangladesh Hitech Park Authority Act, 2010 [SRO 299, 300, 301, 302-AIN/IT/2015 dated 08.10.2015]
55. Income of Grameen Bank for the income earned between 01-10-2016 to 31-12-2020 [SRO 121-AIN/IT/2016 dated 04.05.2016]
56. Income of Excelerate Energy Bangladesh Limited (EEBL) involved in the Floating LNG Storage and Regasification Facility at Cox’sbazar under Build, Own Operate and Transfer (BOOT) method subject to fulfillment of certain conditions [SRO 102-AIN/IT/2017 dated 03.05.2017].

57. Income earned from welfare services of Obstetrical and Gynecological Society of Bangladesh (OGSB) for 3 years [SRO 137-AIN/IT/2016 dated 19.05.2016]
58. Income of the Russian and Foreign workers and consultants working in Rooppur Atomic Electricity Power Generation Project for the tenure under construction [SRO 242-AIN/IT/2016 dated 25.07.2016]
59. Any receipt/allowance (including Lump Grant at the time of retirement) of government employees from government other than basic salary, festival allowance and bonus [SRO 211-AIN/IT/2017 dated 21.06.2017].

5.11.3 Tax exempted incomes (Tax free income) under Section 44(2) – Part B of the Sixth Schedule (Para 15 & 16):

Following tax exempted incomes are included in the total income of an assessee for rate purpose. The assessee will be entitled to get rebate on tax at the average rate of tax for such income. They are:

1. **Income from Association of Persons:** Any sum received by the assessee out of the income of an association of persons other than a Hindu Undivided Family, company or firm on which tax has already been paid. [Para – 15, Part B. Sixth Schedule]
2. **Income from a Firm:** Any share of profit of a partnership firm if tax on such profit or income has already been paid by the firm. [Para – 16, Part B. Sixth Schedule]

In case of a firm, where income is derived by the exercise of a profession and depends wholly on the personal qualification of the partners, and if the partners are prevented by law to form a company, the income would not be taxable in the hands of the firm. The partners of the firm would be assessed considering the share of income of the firm. [SRO 181-L/99 dated 10.07.1999]

5.12 TAX CREDIT INCOME OR INVESTMENT ALLOWANCE AS PER PART B, SIXTH SCHEDULE

As per section 44(2)(b) of the ITO, 1984, a resident and non-resident Bangladeshi assessee will get tax rebate from the amount of tax payable on his total income of the following amount:

Total Income	Amount of Credit / Rebate
If the total income does not exceed Tk. 10,00,000	15% of the eligible amount
If the total income exceeds Tk. 10,00,000 but does not exceed Tk. 30,00,000	(i) 15% of the first Tk. 250,000 of the eligible amount; and (ii) 12% of the rest of the eligible amount;
If the total income exceeds Tk. 30,00,000	(i) 15% of the first Tk. 250,000 of the eligible amount; (ii) 12% of the next Tk. 500,000 of the eligible amount; and (iii) 10% on the rest of the eligible amount;

The "eligible amount" shall be the lesser of:

(i) The amount specified in all paragraphs excluding paragraphs 15 and 16 of Part B of the Sixth

- (ii) 25% of the total income excluding any income for which a tax exemption or a reduced rate is applicable under section 44(4) or any income from any source or sources mentioned in Section 82C(2)(1, or
- (iii) 1,50,00,000.

The following items should be considered as investment allowance to enjoy tax credit facility:

1. **Life Insurance Premium Paid [Para – 1]:** Any sum paid in Bangladesh by an assessee to effect an insurance or a contract for deferred annuity on the life of himself, spouse or minor child, provided that such payment, in the case of insurance, shall not exceed 10% of the sum assessed excluding bonus or other benefits.
2. **Life Insurance Premium Paid by a Hindu Undivided Family [Para – 2]:** Any sum paid in Bangladesh by a HUF to effect an insurance on the life of any male member of the family or the wife of any such member.
3. **Deduction from the salary of Government employee for deferred annuity [Para – 3]:** Any sum not exceeding one-fifth of the salary deducted from the salary payable by the Government or on its behalf to any individual in accordance with the service conditions to secure a deferred annuity for him or for his wife or children.
4. **Contribution to Provident Funds [Para – 4]:** Any contribution by an assessee to any provident fund to which the Provident Fund Act, 1925 applies.
5. **Employer's and Employee's contribution to a Recognized Provident Fund [Para – 5]:** Any sum paid to a recognized provident fund by the assessee and the employer, where the assessee is a participant subject to the limits laid down in Part B of the 6th Schedule.
6. **Contribution to Superannuation Fund [Para – 6]:** Any sum paid by the assessee as ordinary annual contribution to approved superannuation fund as a participant to the fund.
7. **Investment in Savings Certificate [Para – 10]:** Any sum invested by a non-company assessee in the following if the investment are held for 5 years from the date of purchase / up to its maturity:
 - (a) Savings Certificates or instruments specified by the NBR;
 - (b) Unit certificates and mutual fund certificates issued by any financial institution or ICB and its subsidiaries;
 - (c) Govt. securities including development loans/Bonds as specified by the NBR;
 - (d) Shares of Investment Companies as specified by the NBR.

If the securities are disposed of by sale, transfer or in any other manner within 5 years from the date of purchase or before the maturity thereof, the tax credit amount availed for such investment will be cancelled. This amount has to be added to the tax payable amount of the income year on which such certificate was disposed i.e. the assessee has to pay back the money.

8. **Contribution to Deposit Pension Scheme (DPS) [Para – 11]:** Any amount not exceeding Tk. 60,000 by an individual in any Deposit Pension Scheme sponsored by a Scheduled Bank or a financial institution.
9. **Donation to a Charitable Hospital [Para – 11A]:** Any sum paid as donation to a charitable hospital established outside the city corporation, provided the donation is made after one year of establishment of the hospital.

- 10. Donation to Organizations set up for the welfare of retarded people [Para – 11B]:** Any sum paid as donation to an organization set up for the welfare of retarded people, provided the donation is made after one year of establishment of the organization and is approved by the Social Welfare Department and the NBR.
- 11. Donation to Zakat Fund [Para – 13]:** Any sum paid by an assessee as Zakat to the Zakat Fund or charitable fund established by or under the Zakat Fund Ordinance, 1982.
- 12. Contribution to Benevolent Fund and Group Insurance Scheme [Para – 17]:** Any sum paid by an assessee to make provision for his spouse, children or other dependent person to a benevolent fund or any premium paid under a group insurance scheme approved by the NBR.
- 13. Contribution to Aga Khan Development Network [Para – 21]:** Any sum paid by an assessee as donation to any socio-economic or cultural development institution established by the Aga Khan Development Network in Bangladesh.
- 14. Contribution to Philanthropic or Educational Institution [Para – 22]:** Any sum paid by an assessee as donation to Philanthropic or Educational Institution approved by the government for this purpose.
- 15. Investment in Computer / Laptop [Para – 23]:** Any sum invested in purchase of one computer (Upto Tk. 50,000) or one laptop (Upto Tk. 100,000) by an individual assessee.
- 16. Donation to national level institution set up in memory of the liberation war [Para-24]:** Any sum paid by an assessee as donation to a national level institution set up in memory of liberation war.
- 17. Donation to national level institution set up in memory of Father of the Nation [Para-25]:** Any sum paid by an assessee as donation to a national level institution set up in memory of Father of the nation.
- 18. Investment in stocks or shares by an individual in any stock exchange [Para – 27] :** Any sum invested by an assessee, being an individual, in the acquisition of any stocks or shares of a company, mutual fund or debenture listed with any stock exchange. [SRO 60-AIN/IT/2012 dated 28.02.2012]
- 19. Investment in Government Treasury Bond (GTB) [Para – 28]:** Any sum invested by an assessee, being an individual, in the purchase of Bangladesh GTB.
- 20. Contribution to President's Relief Fund [SRO 254/L85]**
- 21. Contribution to Prime Minister's Relief Fund [SRO 125/L91 dated 01.07.1991]**
- 22. Contribution to Ahsania Mission Cancer Hospital [SRO 202/IT/2005 dated 06.07.2005]**
- 23. Donation to The International Centre for Diarrhoeal Disease Research, Bangladesh (ICDDR,B) [SRO 232/IT/2006 dated 24.09.2006]**
- 24. Contribution to Sylhet Diabetic Society, Islamia Eye Hospital and M. A. Ispahani Institute of Ophthalmology, Kidney Foundation; and National Heart Foundation of Bangladesh [SRO 109/IT/2006 dated 07.05.2006]**
- 25. Contribution to Child Health Foundation Hospital; Child Hospital, Jessore; Hospital for Sick Children, Sathkhira (Run by Child Health Foundation, Bangladesh); Digonto Memorial Cancer Hospital, Dhaka; The ENT & Head-Neck Cancer Foundation of Bangladesh, Dhaka; and National Development Foundation for Disabilities', Dhaka [SRO 316-AIN/2008 dated 18.11.2008]**

26. Donation to Dhaka Community Hospital [SRO 92-AIN/2008 dated 10.04.2008]
27. Donation to Centre for the Rehabilitation of the Paralysed (CRP), Savar [SRO 42-AIN/IT/2008 dated 24.02.2008]
28. Contribution to Asiatic Society of Bangladesh, Ramna, Dhaka [SRO 32-AIN/2009 dated 09.03.2009]
29. Contribution to Jatir Janok Bangabondhu Sheikh Mujibur Rahman Memorial Trust, Dhaka; Rafatullah Community Hospital (RCH), Thengamara, Bogra; and Salvation for the Deserving (SFD), Manikgonj [SRO 33-AIN/2009 dated 09.03.2009]
30. Donation to Muktiuddho Jadughor, 5, Segunbagicha, Dhaka [SRO 116-AIN/IT/2010 dated 21.04.2010]
31. Donation to “Society for Assistance to Hearing Impaired Children (SAHIC) [SRO 11-AIN/IT/2011 dated 10.01.2011]
32. Donation to A. K. Khan Health Care Trust [SRO 218-AIN/IT/2011 dated 04.07.2011]
33. Donation to Civil Service College, Dhaka [SRO 409-AIN/IT/2012 dated 17.12.2012]
34. Donation to Center for Neurodevelopment & Autism in Children (CNAC) for 5 years from the SRO issuance date [SRO 147-AIN/IT/2012 dated 03.06.2012]
35. Donation to Dr. Monsuruddin Girls College, Hoshimpur, Kochua, Chandpur for 10 years effective from the date of the SRO issue [SRO 188-AIN/IT/2013 dated 13.06.2013]
36. Donation to Science and Technology Development Fund, Ministry of Science and Technology, Bangladesh Secretariat, Dhaka [SRO 282-AIN/IT/2013 dated 21.08.2013]
37. Donation to Hope Worldwide Bangladesh [SRO 283-AIN/IT/2015 dated 03.09.2015]

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Identify the following items as either tax credit income or tax exempted income: Income from property under trust, Income of a local government, Contribution to recognized provident fund, gratuity, Investment in savings certificate and Purchase of primary share.

5.13 SPECIAL TAX REBATE FOR CORPORATE ORGANIZATIONS

10% rebate is allowed to the corporate organizations on their corporate social responsibility related expenditures subject to the fulfillment of some prescribed conditions. The scope areas of the corporate social responsibility (CSR) to avail this rebate are as follows if any contribution is made to any organization engaged in: (SRO 229-AIN/IT/2011 dated 04.07.2011 later updated by SRO 223-AIN/IT/2012 dated 27.06.2012 & SRO 186-AIN/IT/2014 dated 01.07.2014)

1. Donation through any government bodies to the people of areas affected by natural calamities like Cyclone, Earthquake, Hurricane, Flood etc.
2. Old home foundation and management,
3. Welfare of mentally or physically disable people,
4. Educational institution for street / homeless children,
5. building houses for people living in slums,
6. Donation to social organizations involved in building public awareness about women-right and dowry system,
7. Donation to social organizations involved in the welfare of orphan / homeless children,

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8. Donation to organizations involved in research about liberation war, campaign to uphold the spirit of liberation war and welfare of freedom fighters,
9. Improving sewerage facilities in Chittagong hilltract, alluvial land, river breakage areas.
10. Donation to organizations provide treatment of hare-lipped, cataract; cancer, leprosy.
11. Donation to organizations serving treatment to the Acid Victims,
12. Specialized hospital established for serving the poor people free medical facilities and improving the quality e.g. Cancer, Liver, Kidney, Thalassemia, Eye and Cardio.
13. Donation to public universities;
14. Donation for promoting technical and vocational education for poor meritorious students through any government approved educational institution;
15. Donation to government or MPO included Private educational institution to establish lab and arrange training for IT, Computer and English education;
16. Donation to the organizations engaged in promoting technical and vocational education for unskilled or semi-skilled workers for manpower export;
17. Donation to organizations engaged in infrastructure development and training for national sports level.
18. Donation to built or under constructed national level museums established in the memory of the liberation war.
19. Donation to any national level institution set up in memory of Father of the Nation;
20. Donation to the non-profitable organizations established for treatment, increasing awareness and rehabilitation of HIV, AIDS or intoxication affected people.
21. Donation to the non-profitable private organizations established for the welfare of women and children saved from human trafficking.
22. Donation to government approved fund established for any unique disaster/ catastrophe or arranging any tournament or national event.

5.14 CONDITIONS FOR TAX REBATE ON CSR RELATED EXPENDITURES FOR CORPORATE ORGANIZATIONS

In order to avail the 10% tax rebate on CSR related expenditures, an organization has to fulfill the following conditions: (SRO 229-AIN/IT/2011 dated 04.07.2011 later updated by SRO 223-AIN/IT/2012 dated 27.06.2012 & SRO 186-AIN/IT/2014 dated 01.07.2014)

1. Maximum limit of the CSR expenditure, on which rebate will be allowed, will be 20% of the total income of the company or Tk. twelve (12) crore, whichever is lower.
2. It should pay salary and wages to its employees regularly and if it is a manufacturing unit it must have waste treatment plant or ETP.
3. The firm must pay the relevant taxes like Income tax, VAT etc. and loan installment on a regular basis.
4. It can only contribute to government approved organizations.
5. The organization must submit the relevant documents to the DCT regarding the expenditure.
6. It must comply with the provisions of the Bangladesh Labor Law, 2006.

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7. This expenditure cannot be considered as admissible expenses in the books of accounts;
8. The donation for CSR activities must be paid through banking channel by a company.
9. This SRO will be applicable from the assessment year 2014-15.

Illustration:

X Ltd, a private limited co, has presented the following information:

Total expenditure on CSR activities	Tk. 1 crore
Net income as per audited income statement	Tk. 10 crore
Corporate tax rate	35%

Total income for assessment purpose
 $= \text{Tk. } (10 + 1)$
 $= \text{Tk. } 11 \text{ crore}$

(CSR expenditure is inadmissible expense, so added back with Net Income)

Gross Tax liability on the basis of regular rate* $= (11 \text{ crore} \times 35\%) = \text{Tk. } 3.85 \text{ crore}$

Maximum limit of the CSR expenditure, on which rebate will be allowed:

20% of the total income of the company $(11 \times 20\%) = \text{Tk. } 2.2 \text{ crore}$

Or, Tk. eight (12) crore, whichever is lower i.e. $= \text{Tk. } 2.2 \text{ crore.}$

Since the company's actual CSR expenditure (Tk. 1 crore) is less than the maximum limit (Tk. 2.2 crore), it will get 10% rebate on CSR expenditure of Tk. 1 crore.

Therefore 10% CSR rebate is $(1 \text{ crore} \times 10\%) = \text{Tk. } 10 \text{ lac.}$

Net tax liability will be: $(\text{Gross tax} - 10\% \text{ CSR rebate}) = \text{Tk. } 3.85 \text{ crore} - 0.1 \text{ crore} = \text{Tk. } 3.75 \text{ crore}$

* Assuming that the tax liability is more than minimum tax amount applicable for a company.

KEY POINTS

1. Periodical monetary return coming in with some sort of expectation and definite sources is income.
2. Income must come from outside and must be earned but may have already been received or not.
3. The distinction between capital and revenue nature of income is important for the purpose of income tax as income tax is basically charged on income with revenue nature.
4. For a non-resident, only the income received or deemed to be received and income accrues or arises or deemed to accrue or arise in Bangladesh is to be included in the total income.
5. The term "Total World Income" is relevant for a non-resident only as non-resident assessee pays tax on income earned in Bangladesh at the rate applicable to his total world income.
6. Tax rebate is allowed of an amount equal to 10% to 15% of the sums eligible for tax rebate and maximum amount eligible for tax rebate would be restricted to the lower of 25% of the total income or Tk. 1,50,00,000.
7. Some types of income are included in total income but tax rebate is granted on these incomes at an average rate is commonly known as tax free income.
8. Residential Income from property held under trust, Voluntary contributions received by The Religious or Charitable Institutions, The income of a Local government, pension, gratuity etc are example of tax free income as stated in sixth schedule part – A of the ITO, 1984.
9. An assessee can get tax rebate on certain investments as mentioned in sixth schedule part – B of the ITO, 1984.
10. Assessment of income is basically done under different heads specified in Section - 20.

Multiple choice questions:

1. According to Section 2(34) of Income Tax Ordinance, 1984 income includes any income, profit or gain that is chargeable to tax under any law specified in –
 - (a) section 2
 - (b) section 20
 - (c) section 15
 - (d) section 21
2. Followings are the example of capital receipts except –
 - (a) sale of land
 - (b) compensation received for termination of job
 - (c) compensation received for loss of goods in transit
 - (d) insurance claim received for loss caused by fire to a capital asset
3. Followings are the example of capital expenditure except –
 - (a) cost of reconstructing business premises
 - (b) repair expenses of machineries
 - (c) purchase of mining rights
 - (d) acquisition of the goodwill of any business.
4. Which of the following is not included in the total income of a non resident –
 - (a) Income received in Bangladesh
 - (b) Income accrues or arises or deemed to accrue or arise in Bangladesh
 - (c) Income accrues or arises outside Bangladesh
 - (d) Income deemed to be received in Bangladesh
5. The concept of 'total world income' is relevant for –
 - (a) resident assessee
 - (b) all non resident assessee
 - (c) non resident Bangladeshi assessee
 - (d) non resident foreigner assessee
6. which of the following items is not a deemed income –
 - (a) Medical allowance received from the employer
 - (b) Unrecorded investments
 - (c) Income received from discontinued business
 - (d) Cancellation of indebtedness
7. An assessee, whose total income does not exceed Tk. 10,00,000, is eligible to receive tax rebate on allowable investments @ -
 - (a) 5%
 - (b) 7.5%
 - (c) 11%
 - (d) 15%
8. Following items as specified in Part A of Sixth Schedule are exempted from tax except –
 - (a) Income from property held under trust
 - (b) The income of a Local government
 - (c) Pension
 - (d) Festival bonus

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9. What is the maximum limit of allowable investment to get income tax rebate –
 - (a) Actual investment in allowable sectors
 - (b) Tk. 1,50,00,000
 - (c) 25% of Total income
 - (d) Lower of (b) & (c)
10. life insurance premium is an allowable investment but shall not exceed –
 - (a) 15% of policy value
 - (b) 12.50% of policy value
 - (c) 10% of policy value
 - (d) None of the above

Identify the following statements as either true (T) or false (F):

1. Legality is not an important factor to consider an item as income.
2. Compensation received for harmful effect of a trading asset is a capital receipt.
3. Contribution to a Recognized Provident Fund is an allowable investment.
4. Contribution to Ahsania Mission Cancer Hospital is an allowable investment.
5. Pension is exempted for tax.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 5 – 1:** Define income as per Section 2(34) of the ITO, 1984 and also identify some important characteristics of income.
- Question 5 – 2:** “Nature of income or expenditures needs to understand to apply income tax law against an assessee” – do you agree? Explain.
- Question 5 – 3:** Explain the factors that can determine capital or revenue nature of income and also expenditure?
- Question 5 – 4:** Classify income based on locality and also explain each class of income.
- Question 5 – 5:** Explain the effect of tax free income and tax credit income on determination of total income and tax liability?
- Question 5 – 6:** What is causal and non recurring income? Explain both assessable and non assessable causal and non recurring income with example.
- Question 5 – 7:** What are the contents of the Sixth Schedule of the ITO, 1984? Do you think these contents are important to assess tax liability of an assessee? Explain.
- Question 5 – 8:** Write short note on:
 - (a) Non assessable income
 - (b) Tax payable income
 - (c) Sixth schedule part – B
 - (d) Total world income

Chapter – 5: Income and Its Classification

Answers:

Multiple choice questions		True/False
1. b	6. a	1. T
2. c	7. d	2. F
3. b	8. d	3. T
4. c	9. d	4. T
5. b	10. c	5. T

Self review 5 – 1:

Characteristics of income:

1. Periodical monetary return coming in with some sort of expectation and definite sources is income.
 2. Income must come from outside.
 3. Income must be earned but may have already been received or not.
- (a) Compensation received from golden handshake is a capital receipt because it is not recurring in nature whereas compensation received for goods lost in transit is a revenue receipt as it can be recurring.
- (b) Furniture purchased for use is capital expenditure because it will provide long term benefit whereas furniture purchased for resale is revenue expenditure as it will not be used and so look like an operating transaction of a business.

Self review 5 – 2:

Tax Credit Income	Tax Exempted Income
Contribution to RPF	Income from property under trust
Investment in savings certificate	Income of a local government
Purchase of primary share	Gratuity

CHAPTER - 6

INCOME FROM SALARY

LEARNING OBJECTIVES

After studying Chapter 6, you shall be able to understand:

- ⊕ the concept of income under the head salary
- ⊕ basic components of salary income
- ⊕ different types of provident fund and their features
- ⊕ tax exempted income under the head salary
- ⊕ Non assessable income under the head income from salary
- ⊕ TDS from the head income from salary

6.1 DEFINITION OF SALARY

Section 20 of the ITO, 1984 specifies 7 heads of income. Of these 7 heads "Salary" is the first one. Generally salary means periodical payment made for work to an employee from an employer for the services rendered to him. According to Section 2(58) of the ITO, 1984, Salary includes:

- a. any pay or wages;
- b. any annuity, pension or gratuity;
- c. any fees, commission, allowances, perquisites or profits in lieu of, or in addition to salary or wages;
- d. any advance of salary;
- e. any leave encashment.

6.2 CHARGEABILITY OF INCOME UNDER SALARY

The touchstone of chargeability of an amount as salary is the relationship of an employer-employee between the person making the payment and the person receiving such payment. It comprehends every payment, due or received, by an employee from an employer or former employer on account of services rendered. Even non-monetary benefits and perquisites are valued in accordance with specified rules and assessed to tax. The following incomes shall be chargeable to income tax under the head "Salaries" as per Section 21(1) of the ITO, 1984:

- (a) Any salary due from an employer or a former employer to an assessee in the income year whether paid or not.
- (b) Any salary paid or allowed to him in the income year, by or on behalf of an employer though not due or before it became due to him; and
- (c) Any arrears of salary paid or allowed to him in the income year by or on behalf of an employer, if not charged to income tax for any earlier income year.

On the other hand, Section 21(2) also provides that "where any amount of salary of an assessee is ever included in his total income of an income year on the basis that it had become due or that it had been paid in advance in that year, that amount shall not again be included in his income of any other year."

6.2.1 Points to be remembered:

Following points should be noted with regard to the chargeability of income under the head "Salaries":

Chapter – 6: Income from Salary

1. An income can be taxed under the head "Salaries" only if there is a relationship of an employer and employee between the payer and payee. If this relationship does not exist, then the income would not be deemed to be income from salary.
2. Whether there is a relationship of employer and employee is a question of fact to be decided on all the circumstances of the case. If it is found that there was no element of employer-employee relationship, income is assessable as income from other sources.
3. It does not matter whether the employee is a fulltime employee or a part-time one. Once the relationship of employer and employee exists, the income is to be charged under the head "salaries". If, for example, an employee works with more than one employer, salaries received from all the employers should be clubbed and brought to charge for the relevant income years.
4. For instance, the salary received by a partner from his partnership firm carrying on a business is not chargeable as "Salaries" but as "Profits & Gains from Business or Profession". Similarly, salary received by a person as MP is taxable as "Income from other sources", but if a person received salary as Minister of Government, income should be under the head "Salaries". Pension received by an assessee from his former employer is taxable as "Salaries" whereas pension received on his death by members of his family (Family Pension) is taxed as "Income from other sources"

6.3 DEFINITIONS OF SALARY RELATED ITEMS

6.3.1 Perquisite: Perquisite is a causal emolument or benefit attached to an office or position in addition to salary or wages. Perquisites may be given in a variety of forms. They may be received in cash or in kind. Perquisites received in kind may or may not be convertible into cash. Section 2(45) of the ITO, 1984 defines perquisites as:

- a. any payment made to an employee by an employer in the form of cash or in any other form excluding basic salary, festival bonus, incentive bonus not exceeding ten percent of disclosed profit of relevant income year, arrear salary, advance salary, leave encashment or leave fare assistance and overtime, and
- b. any benefit whether convertible into money or not, provided to an employee by an employer, called by whatever name, other than contribution to a recognized provident fund, approved pension fund, approved gratuity fund and approved superannuation fund;

Perquisite includes-

- ⊕ The value of rent free accommodation;
- ⊕ The value of any concession in the matter of rent respecting any accommodation;
- ⊕ Any sum payable by the employer, whether directly or indirectly, as insurance premium for the assessee or his spouse or any of his dependent child.
- ⊕ The value of any benefit provided free of cost or at a concessionary rate, and
- ⊕ The sum paid by an employer in respect of any obligation of an employee.

Thus, the term "perquisite" means any casual emolument, fee or profit attached to an office or position, any addition to salary and wages. Example of perquisites are Insurance premium borne by the employer, House for free or at concession, Entertainment, Conveyance allowance, car for personal use, leave passage, any other obligation of the employee (House servant, Gardener etc.).

6.3.2 Profits in lieu of salary: "profits in lieu of salary" includes [Section 2(50)]:

- a. The amount of compensation due to or received by an assessee from his employer at or in connection with the termination of or the modification of any terms and conditions relating to his employment; and
- b. Any payment due to, or received by, an assessee from provident or other fund to the extent to which it does not consist of contributions by the assessee and the interest on such contributions.

6.3.3 Employee: Generally 'employee' means the person who works for an employer. According to Section 2(28) of the ITO, 1984 'employee' in relation to a company, includes the managing director, or any other director or other person, who irrespective of his designation, performs, any duties or functions in connection with the management of the affairs of the company.

6.3.4 Employer: Generally 'employer' means a person or an organization who appoints or recruits the employee to work for him according to the instruction. It denotes the person who has employed the assessee. A person is an employer to assessee so long as the contract of employment is in currency. After the end of the currency of contract of employment, the erstwhile employer is called "former" employee. According to Section 2(27) of the ITO, 1984, 'employer' includes a former employer. On the other hand according to Para 1(f), Part B, First Schedule, 'employer' means-

- i) a company, firm, other association of persons, a Hindu undivided family or an individual engaged in a business or profession the profits and gains whereof is assessable to tax under the head 'income from business or profession', maintaining a provident fund for the benefit of his or its employees; or
- ii) any diplomatic, consular or trade mission or office of any inter governmental organization located in Bangladesh, maintaining a provident fund for the benefit of Bangladesh employees of such mission or office.

6.3.5 Wages: Wages is a pledge or payment of usually monetary remuneration by an employer especially for labor or services usually according to the contract, on an hourly, daily or unit work basis. It often includes bonuses, commissions, profit sharing and amount paid by the employer for insurance, pension, hospitalization and other benefits. Generally, here the nature of work is mechanical.

6.4 ELEMENTS OF SALARY AND EXPLANATIONS

Based on the various provisions of the ITO, 1984 and practical situation, elements of salary are:

6.4.1 Basic Salary: Basic salary is the most important element of salary since some allowances and contribution to various funds are determined on the basis of this. Even the yearly increment is also computed on the basis of basic salary. According to Rule 33(2)A, basic salary is the amount paid or payable by the employer or his representative to the employee on a monthly basis or otherwise, for services other than mechanical involving some intellectual or mental skill or expertise. Total amount of basic salary in a year is fully taxable. In this regard the yearly increment should also be taken into consideration.

<p>Explanation 1: If the basic salary of Mr. X is Tk. 10,000 per month, Total annual basic salary of $(10,000 \times 12)$ Tk. 120,000 will be included as a part of total income.</p>

<p>Explanation 2: If Mr. X has withdrawn monthly salary of Tk. 7,000 on July 2016 in the scale of Tk. 6,000-200-10,000 and his date of yearly salary increment falls on March 1; his basic salary for the income year 2016 – 17 will be computed in the following way:</p>

Chapter – 6: Income from Salary

From 01/07/2016 to 28/02/2017 for eight months @ Tk. 7,000	56,000
From 01/03/2017 to 30/06/2017 for four months @ $[(7,000+200) \times 4]$	<u>28,800</u>
	<u>84,800</u>

Explanation 3: If Mr. X has withdrawn monthly salary of Tk. 7,000 on June 2017 in the scale of Tk. 6,000-200-10,000 and his date of yearly salary increment falls on March 1; his basic salary for the income year 2016 – 17 will be computed in the following way:

From 01/07/2016 to 28/02/2017 for eight months @ Tk. 6,800	54,400
From 01/03/2017 to 30/06/2017 for four months @ 7,000	<u>28,000</u>
	<u>82,400</u>

Explanation 4: If Mr. X has withdrawn monthly salary of Tk. 7,000 on July 2016 in the scale of Tk. 6,000-200-10,000 and his date of yearly salary increment falls on March 26; his basic salary for the income year 2016 – 17 will be computed in the following way:

From 01/07/2016 to 28/02/2017 for eight months @ Tk. 7,000	56,000
For March $[(7,000 \times 25/31) + (7,200 \times 6/31)]$ i.e. (5,645.16 + 1,393.55)	7,039
From 01/04/2017 to 30/06/2017 for three months @ 7,200	<u>21,600</u>
	<u>84,639</u>

SELF REVIEW 6 – 1

Mr. X has withdrawn monthly salary of Tk. 7,000 on June 2017 in the scale of Tk. 6,000-200-10,000 and his annual increment falls on April 1; What is his basic salary for the income year 2016 – 17.

- 6.4.2 Dearness Allowance:** Dearness allowance is the most popular allowance being given to employees these days. It means the payment made by the employer to the employee to cope with the higher cost of living, which, in general is a certain percentage of the basic salary. The total amount of dearness allowance is taxable and therefore included under the head of income from salary.

Explanation : If the basic salary of Mr. X is Tk. 10,000 per month and he is given 10% dearness allowance on basic salary per month, the amount of dearness allowance that will be included as a part of total income will be $[(10,000 \times 12) \times 10\%] = \text{Tk. } 12,000$.

- 6.4.3 Bonus:** It means the payment of extra salary based on the basic salary or otherwise for festivals like Eid, Christmas etc. or rewards for good performance. The total amount of bonus is taxable and therefore included under income from salary.

Explanation: If the basic salary of Mr. X is Tk. 10,000 per month and he is given two festival bonus equal to two month's basic salary, the amount of total bonus that will be included as a part of total income will be $(10,000 \times 2) = \text{Tk. } 20,000$.

- 6.4.4 Special Allowance:** According to Part A, Sixth Schedule (Paragraph 5) of the ITO, 1984, any special allowance, benefits or perquisite specifically granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit; are totally exempted from tax.

Explanation: If Mr. X is given a special allowance of Tk. 10,000 to meet some expenses wholly for official purpose, it will not be included under income from salary head.

- 6.4.5 Medical Allowance (Rule 33I):** Where any amount is received or receivable by the employee by way of hospitalization, medical expenses or medical allowance, the

amount, if any, so receivable or received exceeds 10% of the basic salary or Tk.120,000 annually, whichever is less, shall be included in his income.

Explanation: If Mr. X is given Tk. 12,000 as medical allowance in a year and his actual medical expense is Tk. 10,000; His annual basic salary is Tk. 109,000. Under such circumstances, taxable medical allowance will be calculated in the following way:

Medical Allowance	Tk. 12,000
Less: Tk. 120,000 or 10% of basic salary i.e. Tk. 10,900; whichever is lower	<u>Tk. 10,900</u>
	<u>Tk. 1,100</u>

Note: Actual medical allowance is irrelevant in this case. But it is provided that-

- (a) Medical expense or medical allowance not exceeding Tk. 10,00,000 received or receivable by an employee being a person with disability shall not be included in his total income;
- (b) Medical expenses reimbursed by an employer to an employee, other than an employee who is a shareholder director, for a surgery relating to heart, kidney, eye, liver and cancer of the employee, shall not be included in the total income of such employee.

6.4.6 House rent allowance in cash (Rule 33A): This sort of relief is granted by the employer to the employee in order to compensate him in the matter of higher rent prevailing in big cities. When house rent allowance is received in cash, amount exceeding 50% of basic salary or Tk. 25,000 per month (annually Tk. 300,000) whichever is lower, shall be added with salary.

Situation 1: Mr. X is paid monthly Tk. 20,000 as basic salary and he is also given 60% of basic salary as house rent allowance. So, the amount under the head salary is:

House rent allowance (240,000×60%)	144,000
Less: exempted – lower of 50% of basic salary i.e. (240,000×50%) = 120,000 or Tk. 25,000 per month (annually Tk. 300,000)	<u>120,000</u>
	<u>24,000</u>

Situation 2: Mr. X is paid monthly Tk. 60,000 as basic salary and he is also given 60% of basic salary as house rent allowance. So, the amount under the head salary is:

House rent allowance (720,000 × 60%)	432,000
Less: exempted – lower of 50% of basic salary i.e. (720,000×50%) = 360,000 or Tk. 25,000 per month (annually Tk. 300,000)	<u>300,000</u>
	<u>132,000</u>

6.4.7 Rent free accommodation (Rule 33B): When the employee is provided with rent free unfurnished/furnished accommodation, the rental value of the accommodation or 25% of the basic salary, whichever is less, shall be added with salary income.

Explanation: Mr. X is paid monthly Tk. 20,000 as basic salary and he has also been provided with a rent-free accommodation which has an annual rental value of Tk. 120,000. In this case following amount will be added with the salary income:

Rent free accommodation: Rental value	Tk. 120,000	lower one
25% of basic salary (2,40,000×25%)	60,000	Tk. 60,000

6.4.8 Accommodation at a concession rate (Rule 33B): When the accommodation is given by the employer at a concessional rate, the difference between the rent actually paid by the employee and the amount determined using the above rule (i.e. the rental value of the accommodation or 25% of the basic salary, whichever is less) will be added with the salary income:

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Explanation: Mr. X is paid monthly Tk. 20,000 as basic salary and he has also been provided with an accommodation at a concession rate that has an annual rental value of Tk. 120,000. He bears rent of Tk. 2,000 per month. In this case following amount will be added with the salary income:

Value of Rent free accommodation: Rental value	Tk. 120,000	
25% of basic salary (240,000×25%)	60,000	Tk. 60,000
Less: Rent paid by employee (2,000×12)		<u>24,000</u> <u>Tk. 36,000</u>

- 6.4.9 Entertainment allowance (Rule 33H):** This is an allowance given to the employee for entertaining customers or clientele of the employer. The whole amount of entertainment allowance will be included under the head salary income and there will be no exemption. But nothing will be added for free tea, coffee, beverages or the like thereof that are provided at the office premises during the course of work.

Explanation: Mr. X is given Tk. 300 monthly as entertainment allowance, whereas the actual entertainment expense was Tk. 3,000. In addition to this he is also provided with free lunch at office during his work. The entire amount of the entertainment allowance i.e. (300×12) =Tk. 3,600 will be added with salary, there will be no exemption for actual expense or further addition for free lunch.

- 6.4.10 Conveyance allowance received in cash with no conveyance facility (Rule 33C):** Where no conveyance facility is provided by the employer and the conveyance allowance is received by the employee in cash, amount exceeding Tk. 30,000 annually will be added with salary.

Explanation: Mr. X is an employee of Grameen Phone and he is given Tk. 3,000 per month as conveyance allowance. So, the amount added with salary will be as follows:

Conveyance allowance (3,000×12)	36,000	
Less: exempted	30,000	6,000

- 6.4.11 Conveyance facility provided for personal use (Rule 33D):** When the conveyance facility (vehicle) is provided for partly or fully personal use of the employee, 5% of the basic salary or Tk. 60,000, whichever is higher, will be added with salary income. It should be noted here that if the conveyance is provided wholly for official purpose, nothing will be added with salary income.

Explanation 1: Mr. X is paid monthly Tk. 20,000 as basic salary and he has also been provided with a conveyance facility for both personal and official use. Annual maintenance cost Tk. 2,000 has borne by the employer. So, the amount added with salary will be as follows:

Conveyance facility: Higher of Tk. 60,000 or (240,000×5%) i.e., Tk. 12,000: Tk. 60,000

Explanation 2: Mr. X is paid monthly Tk. 20,000 as basic salary and he has also been provided with a conveyance facility for only for official use. So, nothing will be added with salary.

Notes: The cost of the car and annual maintenance cost is irrelevant and proportion of personal and office use of the car is also irrelevant.

- 6.4.12 Additional conveyance allowance along with conveyance facility (Rule 33E):** If an employee is provided with conveyance facility and conveyance allowance in cash, both the (higher of Tk. 60,000 or 5% of basic salary) and amount of the conveyance allowance given in cash will be added with salary income. In this case, there will be no exemption.

Explanation: Mr. X is paid monthly Tk. 20,000 as basic salary and he has also been provided with a conveyance facility for both personal and official use. In addition to this he is also given Tk. 500 monthly as conveyance allowance. Annual maintenance cost of Tk. 3,000 was borne by the employer. So, the amount added with salary will be:

Conveyance facility (Higher of Tk. 60,000	60,000	
or 5% of Tk. 240,000 i.e. Tk. 12,000)		
Add: Conveyance allowance (500×12)	<u>6,000</u>	<u>66,000</u>

- 6.4.13 Fees & commission:** Fees is an amount paid for services rendered, the payment of which is with reference to the work performed and not with reference to any time factor. On the other hand, commission is a payment for transacting a business. It may be based on sales, or net profit or other factors or it may be just fixed sum of money. Whatever the fee or commission is, if it is received from employer the entire amount will be added with salary and will be taxable.

Explanation: Mr. X is paid monthly Tk. 20,000 as basic salary and he has also been provided with a monthly fee of Tk. 500 for a special task conducted by him. In addition to it he is also given a 2 percent commission on net profit (net profit Tk. 50,000) annually. So, the amount added with salary will be as follows:

Fee (500×12)	6,000	
Commission (50,000×2%)	<u>1,000</u>	<u>7,000</u>

- 6.4.14 Servant allowance:** No exemption so, full amount will be added with salary.
- 6.4.15 Compensation:** If an employee receives a certain amount from the employer as compensation for job termination or changing job condition by the employer, the entire amount will be added with salary.
- 6.4.16 Annuity:** Annuity means a yearly allowance or yearly payment for a term of period or for life. The annuity payable by employer or former employer is chargeable under the head 'income from salaries'.
- 6.4.17 Outstanding salary:** The outstanding salary of a particular income year will be added with the salary income in that income year. But if it is received in the next year then it will be excluded from the salary income of the next year since tax has already been paid on that amount.
- 6.4.18 Advance against salary:** If a certain amount of money is received from the employer as advance against salary, it will be added with the salary income of the income year when the advance has been receipt and it will be excluded from the salary income of the next year since tax has already been paid on that amount.
- 6.4.19 Pension:** Pension is periodical payment due to employee from employer after his retirement. Pension is a bounty for past services. The pension may be commuted and full or a portion of such commuted portion may be received. For a resident assessee, pension is fully exempt from tax and hence not included as a part of salary income.
- 6.4.20 Gratuity:** Gratuity is paid in recognition of past services. Generally it is paid at the time of leaving the job. Excess of Tk. 2.5 crore of gratuity is taxable [6th Schedule, Part A, Para – 20].
- 6.4.21 Employer's contribution to Recognized Provident Fund:** In case of a recognized provident fund an equal amount as contributed by the employee is also given by the employer. Here, only the employer's contribution will be added with salary, not the employee's contribution.

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Example: Mr. X is paid monthly Tk. 20,000 as basic salary and he also contributes 10% of his basic salary to a recognized provident fund. His employer also contributes the same amount. In this case, the amount that will be recorded under salary will be:

Employer's contribution to R.P.F. (20,000×10%)	<u>2,000</u>
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- 6.4.22 Interest on Recognized Provident Fund:** Interest on Recognized Provident Fund is a taxable income to the employee and amount of interest exceeding 14.5% rate or 1/3rd of basic salary (whichever is lower) will be added with salary.

Explanation 1: Mr. X is paid monthly Tk. 5,000 as basic salary and he has also received Tk. 7,200 as 18% interest on recognized provident fund. In this case, the amount that will be recorded under the head salary will be:

Interest @ 18% on R.P.F.	7,200	
Less: exempted, lower of interest @14.5% i.e. Tk. 5,800		
or 1/3 rd of basic salary i.e. Tk. 20,000	<u>5,800</u>	<u>1,400</u>
Calculation of 14.5% interest	= (interest ÷ actual rate of interest) × 14.5%	
	= (7,200 ÷ 18) × 14.5% = 5,800	

- 6.4.23 Accumulated Balance of Unrecognized Provident Fund:** Amount received by the employee at the end of service will be added with salary to the extent of employer's contribution and interest thereof.
- 6.4.24 Accumulated Balance of Recognized Provident Fund (RPF):** Amount received from the Fund by the employee at the end of service will not be added with salary.
- 6.4.25 Wages:** Generally it is received by the workers against physical labor work. The full amount is taxable.
- 6.4.26 Lunch/Tiffin Allowance:** If any employee receives any extra cash allowance for lunch/tiffin, the full amount will be taxable. But if free lunch is provided in the office, it will be fully exempted.
- 6.4.27 Special / Professional allowance:** If any employee receives any extra allowance for having any special / professional competence, full amount will be added.
- 6.4.28 Overtime:** For working extra period in addition to the general time limit, an employee receives additional payment named as "Overtime". Full amount of overtime is taxable.
- 6.4.29 Leave encashment:** If the employee gets any cash benefit for not taking the leave, it is known as leave encashment. The amount is fully taxable.
- 6.4.30 Free or concessional passage for travel abroad or within Bangladesh (Rule 33G):**
- (a) Where free or concessional passage for travel abroad or within Bangladesh is provided by the employer to an employee (including the members of his household and dependents) it shall be included in the income of an employee:
 - i) Where the passage is provided in accordance with terms of employment, an amount equal to the sum by which cash payments, if any, made by the employer exceeds the actual expenditure incurred by the employee; and

Example – 1: Mr. X an employee of the Grameenphone traveled to Norway recently, as a part of his service contract, along with his wife, children and mother who is dependent on him. As per the contract, the Grameenphone authority has given him both way free tickets. Besides, He has also been given Tk. 100,000 to meet the expenditure abroad which is also a part of the service contract. Here only Tk. 100,000 will be added with salary, as it has not been given to meet the travel expenditure.

Example – 2: Mr. Y is an employee of Beximco Pharmaceuticals Limited, has been given Tk. 250,000 as a travel passage to India with his spouse as per the terms of employment. During the travel he saved Tk. 30,000 by availing a discount offer of Bangladesh Biman. Here, excess of cash over actual travel passage i.e. Tk. 30,000 will be added with his salary income.

- ii) Where the passage is not in accordance with terms of employment, the whole of the amount paid in cash, if any, or if no cash payment is made, the amount which would have been expended by the employee had the free or concessional passage as the case may be, not been provided by the employer.

Example: Mr. Z has been given Tk. 100,000 as special travel allowance to Maldives for his satisfactory performance in job. It was not a part of his service contract. Here the full amount i.e. Tk. 100,000 will be added with salary, as the passage has not been given as a part of service contract.

Provided that where free concessional passage for travel abroad is availed of by the employee more than once in two years, the whole of the amount paid to him in cash, if any, for such additional passage or if no cash payment is made, the amount which would have been expended by him, had the additional passage not been provided by the employer, shall be included in his income.

- (b) Where the transport is provide free of cost or at a concessional rate by and undertakings engaged in the transport of passengers or the carriage of goods to any employee of the undertaking (including the members of his household and dependents) in any conveyance owned or chartered by the undertakings for the purpose of the transport of the passengers or carriage of goods, nothing shall be added in his income. In this regard, when Bangladesh Biman, GMG, Best Air or other Airlines Companies, any other transport companies like Bangladesh Railway, BRTC, Greenline Transport Services, Shohag Paribahan Private Limited etc. provides its employees free tickets for travel either within or outside Bangladesh, either as term of employment or not and as frequently as it wants, nothing would be added with the salary for such free tickets.

6.4.31 Other benefits: Where any benefit or annuity not covered by the above provisions, is provided to the employee, the members of his household or his dependents, there shall be included in his income an amount equal to the amount which would have been expended by the employee in obtaining such benefit or annuity from an independent source in the same or near locality, had it not been so provided, as reduced by the amount, if any, expended wholly, necessarily and exclusively in the performance of the duties of the office held by him or actually paid by him in cash.

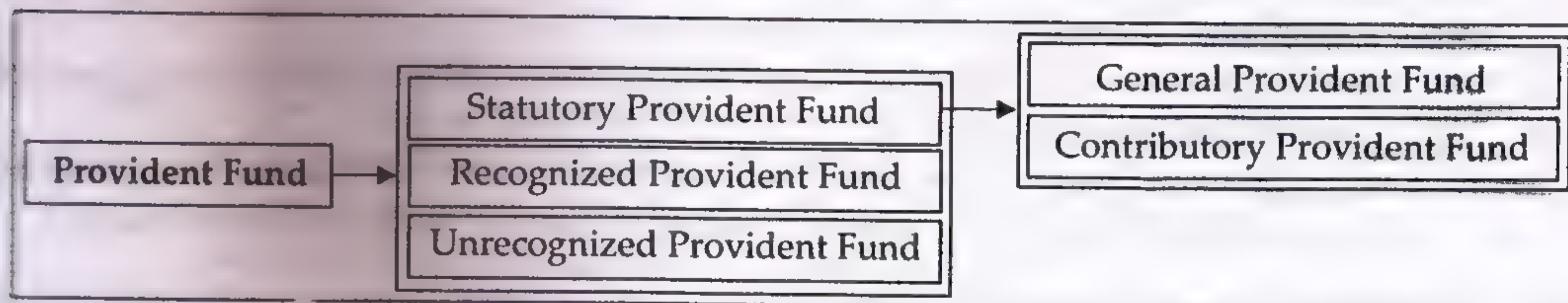
Thus, if an employee takes interest free loan from the employer, there is a benefit accruing to the employee in that had he taken the loan from outside he would have been liable to pay a certain amount of interest. In such a case, the estimated amount of interest thus saved is a perquisite chargeable to tax in the hands of the employee [Addl. C.I.T. Vs Late A. K. Lakshmi (1978) 113 ITR 368].

SELF REVIEW 6 - 2

Mr. Mollick receives basic salary of Tk. 15,000 per month. His other benefits are: rent free accommodation with annual rental value of Tk. 40,000; full time car that he uses both personal and office purposes; leave encashment 11 days basic salary. Calculate Mr. Mollick's taxable income under (a) rent free accommodation (b) conveyance facilities and (c) income under the head salary.

6.5 PROVIDENT FUND

Provident fund is the fund where funds are accumulated during the active period of employees for his financial protection at the end of his service life, amount contributed by the employee or the employer or both employee and employer. The amount lying in the fund is invested in trust securities that yield fair but secured returns. When an employee leaves his service either on retirement or for any other reason, he gets back the money standing to the credit of his provident fund account. In case of death of the employee, the amount is refunded to his nominee. Provident fund is a social security measure provided to employees for his rainy days of post-employment period. There are three types of provident fund:



6.5.1 Statutory or Government provident fund: This provident fund is controlled and maintained by the government for the government employees. Such fund is constituted and run by the government under Provident Fund Act 1925, General Provident Fund Rules 1979 and Contributory Provident Fund Rules 1979. Government employees who are permanently transferred to the pensionable jobs, they contribute to general provident fund where government as an employer contributes nothing. However, government employees who have no benefits from pension, they contribute to contributory provident fund where both government and the employee contribute. Generally most of the government employees of our country are pensionable.

Points to remember at the time of tax computation:

- Since employer does not contribute to general provident fund there is no question of its inclusion with salary. But since government contributes to contributory provident fund, government's contribution will be included.
- Employee's contribution to statutory / government provident fund will be included in investment allowance.
- Accumulated balance of GPF at the credit of employees when received, is neither included in his total income nor taxed. It is excluded from total income under Para 21(a), Part A of Sixth Schedule of the ITO, 1984.

6.5.2 Recognized Provident fund: Recognized Provident fund is constituted under the conditions mentioned in Part B, First schedule in the Income Tax Ordinance, 1984 and approved by the commissioner of taxes. These funds are available in non-government

organizations where both employees and employer contribute the same amount. In order that a provident fund may receive and retain recognition, it shall satisfy the conditions set out below and any other conditions which the NBR may prescribe:

- i) All the employees shall be employed in Bangladesh or shall be employed by an employer whose principal place of business or head office is in Bangladesh. In case of exceptional situation the recognition criteria will depend on the Commissioner's judgment.
- ii) Employer must deduct a certain percentage from the salary of employee and deposit the same to the fund.
- iii) Employer will also contribute the same amount as deducted from the employee.
- iv) The fund will constitute taking the contribution of both the employer and employee.
- v) The fund will be managed by trustee of two or more persons.
- vi) Employer will not be able to take any amount from the fund.
- vii) Employee will receive the amount deposited to his account including principal and interest at the time of leaving the job.

Points to remember at the time of tax computation:

- a. Only, employer's contribution to RPF and interest thereon are included in the total salary income of the employee as per the rules.
- b. Both employer's and employee's contribution to RPF are considered to be a part of investment allowance.
- c. Accumulated balance at the credit of employee in the RPF, when received shall be excluded from salary income under Para 21(b), Part A of Sixth Schedule of the ITO.

6.5.3 Unrecognized Provident Fund: Unrecognized provident fund is not the recognized or statutory fund. This fund is not constituted under Part B, First schedule in the Income Tax Ordinance, 1984 or under any other applicable acts or laws and is not approved by the commissioner of taxes. In this fund, both the employees and employer contributes and generally it is found in non-government organization. In this case, the employers' contribution and interest thereon is not included in the total income of the employee. At the time of the employee's retirement, the accumulated balance of the UPF except employees' contribution and interest thereon is included in the total income.

Points to remember at the time of tax computation:

- a. Employer may contribute as well as employee to this provident fund, but nothing will be added in the salary income.
- b. At the time of employee's retirement, the accumulated balance of this fund minus the employee's contribution plus interest thereon is taxable and will be added with salary.

COMPARATIVE ANALYSIS OF VARIOUS PROVIDENT FUNDS

[Here, GPF: General Provident Fund; CPF: Contributory Provident Fund; RPF: Recognized Provident Fund and UPF: Unrecognized Provident Fund]

❖ **Applicable Law:**

GPF : Provident Fund Act, 1925 and General PF Rules, 1979

CPF : Provident Fund Act, 1925 and Contributory PF Rules, 1979

RPF : First Schedule, Part B of Income Tax Ordinance, 1984

UPF : Nil

Chapter – 6: Income from Salary

❖ Type of employees:

- GPF : Government employees with pension benefit
- CPF : Government employees without pension benefit
- RPF : Non government employees employed by Bangladeshi employer
- UPF : Other non-government employees

❖ Fund Management:

- GPF : Government manage this fund within Bangladesh in taka
- CPF : Government manage this fund within Bangladesh in taka
- RPF : Government manage this fund within Bangladesh in taka
- UPF : Employer himself manage the fund

❖ Employees contribution:

- GPF : Under rule 5, after 2 years of job, all employees have to contribute. If employee wants contribution may be given from the beginning and can be stopped at 52 years of age. Amount is set by the employees under rule 9, but minimum rate will be:

Monthly Salary (Tk.)	Up to 600	601 – 1,000	1,001 – 1,500	1,501 – 4,000	Above 4,000
Rate	2%	4%	6%	8%	10%

- CPF : Under Rule 7, each employee has to contribute to CPF monthly. Under Rule 8, the employee himself determine the rate of contribution that will not be less than 8.33%

- RPF : Under Para 3, employee will contribute a fixed portion of his basic. Under Rule 55, if any employee holds voting rights of more than 5% of any company, his contribution will not be more than Tk. 500. Under Para 5(1), maximum amount of contribution for tax exemption is 1/3rd of basic.

- UPF : The rate is determined by the rules set by the company under consideration.

❖ Employers' contribution:

- GPF : Government as an employer contributes nothing.

- CPF : Under rule 11(1), government as an employer pays an equal amount as the employee pays.

- RPF : Employer will not contribute more than the employee [para3(c)]. But, if the monthly income of the employee is not more than 500, employer may contribute more but that must not be more than twice of the employees contribution [rule 58(1)]

- UPF : If mentioned in the contract, employer may contribute equal amount as the employee contributes. It may be non-contributory also.

❖ Rate of interest:

- GPF : Set by government. Presently, the rate is 13.5%.

- CPF : Same as general PF

- RPF : It depends on where the fund is invested.

- UPF : It depends on where the fund is invested.

EFFECTS OF DIFFERENT KINDS OF PROVIDENT FUND IN ASSESSMENT OF TAX

For calculating Total Income:

❖ Employees contribution –

- GPF : Remain with salary, no further addition is required

- CPF : Remain with salary, no further addition is required

- RPF : Remain with salary, no further addition is required

- UPF : Remain with salary, no further addition is required

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- ❖ **Employers contribution –**
 GPF : Not applicable
 CPF : Will be added with salary
 RPF : Will be added with salary
 UPF : Will not be added with salary
- ❖ **Interest on provident fund –**
 GPF : Will not be added with salary
 CPF : Will not be added with salary
 RPF : Will be added with salary exceeding interest at the rate of 14.5% or 1/3rd of basic salary, whichever is less. (Sixth Schedule, Part A, Para 25)
 UPF : Will not be added with salary
- ❖ **Fund withdrawn at retirement –**
 GPF : Will not be added with salary (Sixth Schedule, Part A, Para 21)
 CPF : Will not be added with salary (Sixth Schedule, Part A, Para 21)
 RPF : Will not be added with salary (Sixth Schedule, Part A, Para 21)
 UPF : Will be added with salary to the extent of employers' contribution and the interest thereon.

EFFECTS ON TAX EXEMPTION

Point of discussion	GPF	CPF	RPF	UPF
Employees Contribution	Eligible for tax exemption	Eligible for tax exemption	Eligible for tax exemption	Not exempted
Employers' Contribution	Not applicable	Eligible for tax exemption	Eligible for tax exemption	Not applicable
Interest on PF	Not applicable	Not applicable	As exempted, no question of tax rebate	Not applicable
Amount received at retirement	Not applicable	Not applicable	Not applicable	Taxable

6.6 APPROVED SUPERANNUATION FUND (ASF)

This fund is created for granting pension and other benefit to the employees on their retirement, or after a specified age or his death. This is run by the individual name of the employees. This fund is approved and run under the provisions of Part A, First Schedule of the Income Tax Ordinance, 1984. Both employee and employer contribute to the fund. The contribution of the employer is added to the income of the employee. But interest on this fund and any amount received from it is not added to income.

Advantages:

1. Interest and other income from the fund is totally tax exempted.
2. Any gain from sale or transfer of capital asset of the fund is tax-free income.
3. Employees' contribution to the fund will be tax rebate able.
4. Total amount received from the fund at retirement is tax exempted.
5. The contribution of the employer is treated as admissible expense for him.

6.7 APPROVED GRATUITY FUND (AGF)

If the employer agrees to constitute a gratuity fund for the employees on the contract of job, then the employer contributes to the gratuity fund for the benefit of the employees in the event of retirement. The approved gratuity fund is approved by NBR and run under the conditions mentioned in First Schedule, Part C. Employee contributes nothing in this fund. The contribution of the employer is considered as income of employee. But interest on this fund and any amount received from it is not added to income.

Advantages:

1. Income from the fund is totally tax exempted.
2. Any gain from sale or transfer of capital asset of the fund is tax-free income.
3. Total amount received from the fund at retirement is tax exempted.
4. The contribution of the employer is treated as admissible expense for him.

APPROVED SUPERANNUATION FUND AND APPROVED GRATUITY FUND IN ASSESSMENT OF TAX:

Points of discussion	Approved Superannuation Fund	Approved Gratuity Fund
Employee's contribution	Contribution on annual basis will not be included in salary income; otherwise will be included [Part A, First Schedule, Para 5(3)]	Not applicable
Employer's contribution	Will be added with salary income	Will be added with salary income
Interest on accumulated balance and capital gain	Will not be added with salary income [Part A, First Schedule, Para 5(1)]	Will not be added with salary income [Part C, First Schedule, Para 5]
Amount received from fund at the time of retirement	Will not be added with salary income [Part A, Sixth Schedule, Para 21]	Will not be added with salary income
Repayment of principal and interest to the employer by the employee	Will be added with salary income [Part A, First Schedule, Para 6]	Will be added with salary income [Part C, First Schedule, Para 7]

6.8 WORKER'S PARTICIPATION FUND (WPF)

It is established under the Companies Profit (workers participation) Act, 1968 (Act XII of 1968). Any payment received by an employee from this fund, subject to prescribed limits and conditions, shall be excluded from the total income as provided under Para 21(d), Part A of Sixth Schedule to the Income Tax Ordinance, 1984.

SELF REVIEW 6 – 3

Mr. Akmal is a government employee enjoys general provident fund benefit whereas Mr. Maula a non government employee enjoys recognized provident fund benefit. How can you differentiate provident fund benefits of these two employees?

6.9 TAX DEDUCTED AT SOURCE FROM SALARY

Under section 50(1) of the ITO, 1984, any person who is responsible for paying salary shall deduct income tax on the amount payable at the average rate. The tax shall be calculated on the basis of the rates of tax in force for the financial year in which the payment is made on the estimated income of the assessee under this head. At the time of making deductions under subsection (1), the amount to be deducted may be increased or decreased for the purpose of adjusting any excess or deficiency arising out of any previous deductions or failure to make deductions [Sec – 50(2)]. For the purposes of deductions under subsection (1) in respect of salary payable in a foreign currency, the value in taka of such salary shall be calculated at such rate as the Board may prescribe. The tax so deducted shall be adjusted against the tax liability at the time of regular assessment. Where the employer fails in his duty to deduct tax at source, he will be considered as “Tax Defaulter” shall be responsible for payment of additional 2% surcharge per month on the tax amount.

Every person who has deducted or collected any tax at source from salary (not being salaries paid by the government) shall furnish, to the person from whom such deduction or collection has been made, a certificate of tax deduction under section 58 shall be issued in accordance to rule 18 specifying relevant information in this regard.

6.10 NON-ASSESSABLE INCOMES UNDER THE HEAD “SALARY”

As per Sixth Schedule, Part A of the ITO, 1984, following salary incomes are non-assessable:

- a) All employees, mainly for all Bangladeshi residents:**
 - i) Any income from a provident fund established under the Provident Fund Act, 1925 or workers participation fund. (Para 4)
 - ii) Any special allowance, benefits or perquisite specifically granted to meet some official expenses. (Para 5)
 - iii) Pension (Para 8)
 - iv) Gratuity up to Tk. 2.5 crore (Para 20)
 - v) Any receipt from govt. and recognized provident fund, approved superannuation fund and a worker’s participation fund (not exceeding Tk. 50,000) . (Para 21)
 - vi) Interest on recognized provident fund if it does not exceed 1/3rd of basic salary or interest amount computed @ 14.5% per annum. (Para 25)
 - vii) Any amount received by an employee of a government organization, a local authority, or an autonomous or semi-autonomous body at the time of his retirement. (Para 26)
- b) For foreign employees:**
 - i) Any income received by any ambassador, high commissioner, envoy, minister, charge d’affaires, commissioner, counselor, secretary, advisor of an embassy or high commission. (Para 7)
 - ii) Salary of foreign technician employed by a Bangladeshi firms (Para 15)
 - iii) Tax liability of an employer computed on the salary of a foreign technician as per Para 15. (Para 16)
 - iv) Salary of a foreign technician and tax paid by the employer on his salary who works in a NBR approved Consultancy or Engineering firm.

6.10.1 Chargeability of tax on salary income of certain persons e.g. ministers. MPs, Judges etc: Through the Finance Act 2011, the following provisions have been introduced for chargeability of tax on salary income of certain persons:

Chapter – 6: Income from Salary

Nature of person	Chargeability to tax on salary income
Prime minister, Speaker, Ministers and advisors with minister rank, Deputy Speaker.	Only, Basic salary amount is taxable; other allowances / elements of salary are fully exempted from tax [SRO 226 – Law/IT/2011 dated 4 th July, 2011]
Honorable Judges of High Court and Appellate Division of the Supreme Court	Only, Basic salary amount is taxable; other allowances / elements of salary are fully exempted [SRO 225 – Law/IT/2011 dated 4 th July, 2011]
Government employees	Only, Basic salary, Festival allowance & Bonus amount is taxable; other allowances / elements of salary are fully exempted from tax [SRO 211 – Law/IT/2017 dated 21 June, 2017]

6.11 ITEMS INCLUDED IN INVESTMENT ALLOWANCE RELATED TO SALARY INCOME

From basic salary, the employer can deducts a certain amount of money under various heads according to the contract between employer and employee. Of those some of the deductions are included under the head Investment Allowance: As per the rules explained in the Part B of Sixth Schedule of the ITO, 1984, the following items are considered as a part of the Investment Allowance:

- i) Any income deducted to a deferred annuity or for making provisions for his wife or children, provided that the sum so deducted shall not exceed 1/5 of the salary. (Para 3)
- ii) Employee's contribution to a Government/Statutory Provident Fund. (Para 4)
- iii) Employee's and Employer's contribution to a RPF. (Para 5)
- iv) Ordinary annual contribution to approved superannuation fund. (Para 6)
- v) Employee's contribution to a benevolent fund or group insurance scheme. (u/p 17)

COMPUTATION OF INCOME FROM SALARY AT A GLANCE:

Description	Amount/Percentage that will be added to salary
1. Basic Salary	Full
2. Dearness Allowance	Full
3. Bonus	Full
4. Commission and fees	Full
5. Advance salary	Full
6. Accrued Salary	Full, provided it was not taxed in earlier period
7. Leave encashment	Full
8. Pension	Nothing, since fully exempted
9. Gratuity	Actual amount less Tk. 2.5 crore exempted
10. Annuity	Full
11. Profit in lieu of Salary	Full
12. Profit in addition to Salary	Full
13. Education Allowance for children	Full
14. Employer's contribution to RPF	Full
15. Employer's contribution to Approved Superannuation Fund	Full

16. Employer's contribution to Approved Gratuity Fund	Full
17. Employer's contribution to life insurance policy	Full
18. Entertainment Allowance	Full
19. Medical Allowance*	Medical allowance received less Tk. 120,000 or 10% of basic salary whichever is lower.
20. Traveling Allowance	Excess over actual.
21. Special Allowance	Nothing, if given for official purpose.
22. House Rent Allowance	Actual allowance less exemptions of Tk. 25,000 per month (annually Tk. 300,000) or 50% of basic salary whichever is less.
23. Rent Free Accommodation	Rental value or 25% of basic whichever is less
24. Accommodation at concessional rate	Rental value or 25% of basic whichever is less, minus deducted rent
25. Conveyance Allowance	Actual amount less exemption of Tk. 30,000 on an annual basis.
26. Transport / conveyance facility	Higher of Tk. 60,000 or 5% of basic salary; if conveyance facility is given for personal, both personal and official purpose. Nothing will be added if it is given only for official purpose.
27. Both Conveyance Allowance & Transport / conveyance facility	Higher of Tk. 60,000 or 5% of basic salary Plus Conveyance Allowance; Here no exemption will be allowed for cash allowance.
28. Interest on RPF	Actual Interest less exempted to the extent of the interest @ 14.5% rate or 1/3 rd of basic salary, whichever is less.
29. Free tea, coffee or lunch in office premises	Nothing
30. Free dress, telephone, power, gas, water in office etc.	Nothing
31. Free caretaker, sweeper etc.	Nothing
32. Servant allowance	Full
33. Compensation	Full
34. Allowance received as Head of the department / Charge allowance.	Full
35. Overtime	Full
36. Residence telephone bills / utility bills / club bills reimbursed	Full

* Medical expense or medical allowance not exceeding Tk. 10,00,000 received or receivable by an employee being a person with disability shall not be included in his total income; Medical expenses reimbursed by an employer to an employee, other than an employee who is a shareholder director, for a surgery relating to heart, kidney, eye, liver and cancer of the employee, shall not be included in the total income of such employee.

Chapter – 6: Income from Salary

CONTRIBUTION TO PROVIDENT FUNDS: SUMMARY OF TAX CHARGEABILITY

Nature of PF	Contribution	To be included in total income	To be considered as investment allowance
Recognized (RPF)	: Employer's	√	√
	: Employee's	x	√
Unrecognized (URPF)	: Employer's	x	x
	: Employee's	x	x
Statutory / Govt. (SPF)*	: Employee's	x	√

* Employer do not contribute in case of Statutory / Govt. Provident Fund (SPF).

SPECIMEN FORM FOR COMPUTING "INCOME FROM SALARY"

Name of the Taxpayer

Assessment year: 2017 – 2018; Income year: 2016 – 2017

Income from Salary (Section – 21)		Tk.	Tk.
1. Basic salary			XX
2. Dearness allowance			XX
3. Annuity			XX
4. Festival bonus / performance bonus			XX
5. Leave encashment / Compensation			XX
6. Employer's contribution to recognized provident fund			XX
7. Interest on recognized provident fund		XX	
Less: exempted – lower of interest @ 14.5% or 1/3rd of basic salary		XX	XX
8. Advance salary / outstanding salary			XX
9. Entertainment allowance			XX
10. Medical allowance*		XX	
Less: exempted – Tk. 120,000 or 10% of basic salary whichever is lower		XX	XX
11. House-rent allowance		XX	
Less: exempted - lower of 50% of basic salary or Tk. 300,000 (annually)		XX	XX
12. Rent free accommodation (furnished or not furnished) :			
The rental value or 25% of basic salary whichever is lower			XX
13. Accommodation at a concessional rate:			
The rental value or 25% of basic salary whichever is lower		XX	
Less: rent paid by the employee		XX	XX
14. Conveyance allowance		XX	
Less: exempted – (up to Tk. 30,000)		XX	XX
15. Conveyance facility: Higher of Tk. 60,000 or 5% of basic salary			XX
16. Conveyance facility & allowance: both will be added & no exemption is allowed.			XX
17. Servant's allowance			XX
18. Overtime / Charge allowance			XX
19. Residence telephone bill/utility bill/ club bill reimbursed			XX
20. Pension		XX	
Less: Exempted - Full		XX	-

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21. Gratuity	XX	
Less: Exempted – Up to Tk. 2,50,00,000	XX	XX
22. Other benefits		XX
Total income from salaries		XX

* Medical expense or medical allowance not exceeding Tk. 10,00,000 received or receivable by an employee being a person with disability shall not be included in his total income; Medical expenses reimbursed by an employer to an employee, other than an employee who is a shareholder director, for a surgery relating to heart, kidney, eye, liver and cancer of the employee, shall not be included in the total income of such employee.

Illustration 6 – 1:

Mr. Rahman is a service holder. Compute his taxable income from salary and investment allowance for the year ended 30th June 2017 considering his basic salary (BS) Tk. 20,000 per month; Dearness allowance 10% of BS; Two festival bonuses, each equal to one month's BS; House rent 40% of BS; Conveyance allowance Tk. 3,000 per month; Medical allowance Tk. 2,500 per month (actual expense Tk. 22,500); Entertainment allowance Tk. 100 per month (actual expense Tk. 1,000); and Commission Tk. 3,000. His contribution to recognize provided fund (RPF) is 10% of BS. His employer also contributed the same to the fund. He received Tk. 2,500 as interest on RPF @ 10%.

Solution 6 – 1:

Assessee: Mr Rahman

Assessment year: 2017 – 2018; Income year: 2016 – 2017

Determination of total income

Income from Salaries (Section – 21):	Tk.	Tk.
(a) Basic salary (20,000 × 12)		240,000
(b) Dearness allowance (240,000 × 10%)		24,000
(c) Festival bonus (20,000 × 2)		40,000
(d) House rent (240,000 × 40%)	96,000	
Less: Tk. 300,000 annually @ 25,000 p.m. or 50% of Basic salary i.e. 120,000 whichever is lower	120,000	-
(e) Conveyance allowance (3,000 × 12)	36,000	
Less: Exempted	30,000	6,000
(f) Medical allowance (2,500 × 12)	30,000	
Less : Lower of Tk.120,000 or 10% of B.S. i.e. Tk. 24,000	24,000	6,000
(g) Entertainment allowance (100 × 12)		1,200
(h) Employer's contribution to R.P.F. (240,000 × 10%)		24,000
(i) Interest on R.P.F @10%.	2,500	
Less : Exempted maximum @ 14.5% (2,500 ÷ 10 × 14.5) = 3,625 or one-third of B.S i.e. Tk. 80,000; whichever is lower	3,625	-
(j) Commission & fee		3,000
Total		344,200

Notes: (1) Actual medical expense amount is irrelevant (2) For the assessment year 2017-18, the tax-exemption limit of conveyance allowance paid in cash will be Tk. 30,000. (3) Investment Allowance: Employer's contribution to RPF Tk. 24,000 + Employee's contribution to RPF Tk. 24,000 = Tk. 48,000.

Illustration 6 – 2:

Mr. Aksar Salman is a service holder. Following are the particulars of his income from salary for the year ended on 30th June 2017. Compute taxable income from salary and investment allowance.

Chapter – 6: Income from Salary

Basic salary Tk. 25,000 per month; Dearness allowance – 10% of Basic salary; Two festival bonuses - each equal to one month's basic salary; He has been provided with a rent-free quarter, the annual rental value of which is Tk. 50,000; He has been provided with a car for both office and private use; Medical allowance – Tk. 3,000 per month; During the year he received Tk. 6,000 as traveling allowance; His contribution to an unrecognized provident fund @ 10% of basic salary; Interest on provident fund @ 13% on accumulated balance equivalent to Tk. 2,500; He is given a servant allowance of Tk. 200 per month; He contributes 1% of his basic salary to the Group Insurance Scheme; He has paid Tk. 5,500 per month on a Deposit Pension Scheme.

Solution 6 – 2:

Assessee: Mr. Aksar Salman

Assessment year: 2017 – 2018; Income year: 2016 – 2017

Determination of total income

Income From Salary (Section – 21):	Tk.	Tk.
(a) Basic salary (25,000 × 12)		3,00,000
(b) Dearness allowance (300,000 × 10%)		30,000
(c) Festival bonus (25,000 × 2)		50,000
(d) Rent free accommodation: Lower of Rental value i.e. 50,000 or 25% of Basic salary i.e. 75,000		50,000
(e) Conveyance facility (Higher of Tk. 60,000 or 5% of B.S. i.e. Tk. 15,000)		60,000
(f) Medical allowance (3,000 × 12)	36,000	
Less : Lower of Tk.120,000 or 10% of B.S. i.e. Tk. 30,000	30,000	6,000
(g) Traveling allowance	6,000	
Less : exempted (actual expense)	6,000	
(h) Servant allowance (200 × 12)		2,400
Total		<u>498,400</u>

Investment Allowance: (Actual)

	Tk.
Employee's contribution to Group Insurance Scheme 1% of B.S. (300,000×1%)	3,000
Contribution to DPS (5,500×12 = 66,000 but maximum limit is Tk. 60,000)	60,000
Total	<u>63,000</u>

Note: It is assumed that travel allowance was given for official purpose and the full amount has been expensed.

Illustration 6 – 3:

Mr. Nahid Hasan Khan is a service holder. Following are the particulars of his income from salary for the year ended on 30th June 2017. Compute taxable income from salary.

Basic salary Tk. 25,000 per month; Dearness allowance 10% of Basic salary; Two festival bonuses, each equal to one month's basic salary; He has been provided with a house at a concessional rate at which Tk. 1,000 per month is deducted from his salary. The annual value of the house is Tk. 50,000; He has been provided with a car for both office and private use. Besides he is also provided with Tk. 1,000 per month as conveyance allowance; He has also been provided with telephone facilities at his residence. The bill for this telephone reimbursed amounted to Tk. 12,000;

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During the year he received arrear salary of Tk. 16,000, not charged to income for any earlier income year; His contribution to unrecognized provident fund @ 10% of basic salary. The employer also contributes the same amount; Compensation received from previous employer Tk. 50,000; Leave encashment Tk. 20,000; Gratuity Tk. 50,000 and Overtime received Tk. 5,000.

Solution 6 – 3:

Assessee: Mr. Nahid Hasan Khan

Assessment year: 2017 – 2018; Income year: 2016 – 2017

Determination of total income

Income From Salary (Section – 21):	Tk.	Tk.
(a) Basic salary (25,000 × 12)		300,000
(b) Dearness allowance (300,000 × 10%)		30,000
(c) Festival bonus (25,000 × 2)		50,000
(d) Accommodation at a concessional rate: Lower of rental value i.e. 50,000 or 25% of Basic salary i.e. 75,000	50,000	
Less: Rent paid by the assessee (1,000 × 12)	12,000	38,000
(e) Conveyance facility (Higher of Tk. 60,000 or 5% of B.S. i.e. Tk. 15,000)		60,000
(f) Conveyance allowance (1,000 × 12)		12,000
(g) Telephone bill reimbursed by the employer		12,000
(h) Arrear salary received		16,000
(i) Compensation received		50,000
(j) Leave encashment		20,000
(k) Gratuity	50,000	
Less: exempted (full)	50,000	-
(l) Overtime received		5,000
Total		593,000

Note: Employer's contribution to unrecognized provident fund is excluded from total income.

Illustration 6 – 4:

Mr. Zahid, the Additional Secretary of the Ministry of Finance, Government of the People's Republic of Bangladesh receives basic salary of Tk. 40,000 per month in the income year 2016 – 2017. Besides basic salary he received house rent allowance @ 60% of basic salary; a full time car; medical allowance Tk. 2,000 per month. During the year he received two bonuses each equal to one month's basic salary. He contributes 10% of basic salary into a statutory provident fund (SPF). From that fund he also received interest of Tk. 8,000 at an interest rate of 16% per annum. Compute taxable income of Mr. Zahid under "Income from Salary" for the income year 2016-17

Solution 6 – 4:

Assessee: Mr Zahid

Assessment year: 2017 – 2018; Income year: 2016 – 2017

Determination of total income

Income From Salary (Section – 21):	Tk.	Tk.
(a) Basic salary (40,000 × 12)		480,000
(b) House rent (480,000 × 60%)	288,000	
Less: Exempted – Full	288,000	-

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(c) Conveyance facilities ($480,000 \times 5\%$)	24,000	
Less: Exempted – Full	24,000	-
(d) Medical allowance (250×12)	24,000	
Less : Exempted – Full	24,000	-
(e) Bonus ($40,000 \times 2$)		80,000
Total		<u>560,000</u>

Notes: As Mr. Zahid is a government employee, only basic salary, bonus and festival allowance amount is taxable. All other allowances are fully exempted from tax as per SRO 211 – Law/IT/2017 dated 21.06.17 – Ref. 6.10.1

Illustration 6 – 5:

On June 2017, Mr. Anil Ambani's basic salary falls on Tk. 12,000 in the scale of 10,000-1,000×4-14,000. His date of yearly increment is on 1st April. He received dearness allowance @ 10% of basic salary and medical allowance Tk. 1,175 per month. During the year his actual amount of medical expense was Tk. 3,000. He received three bonuses (Festival – two and performance – one) each equivalent to one month's basic salary- received in the month of August, January and May respectively. He contributes 10% of his basic salary to a recognized provident fund from which he has also received an interest of Tk. 1,500 @ 15% interest. His employer also contributes the same amount to the RPF. He has been provided with a rent-free quarter and a car for both official and personal purpose. During the year he has also received an entertainment allowance of Tk. 13,375 of which Tk. 4,500 has actually been spent. He has also received arrear salary of Tk. 30,000 which has not been taxed earlier. He has also been given travel allowance of Tk. 10,000 during the year for official tour.

His investments during the year were: Purchase of shares of listed company and partnership firm Tk. 2,000 and Tk. 5,000 respectively; Purchase of gold Tk. 10,000; Payment of his life insurance premium Tk. 4,000 (Policy value Tk. 35,000); Purchase of books and magazine Tk. 3,000; Contribution to a Deposit Pension Scheme Tk. 500 on a monthly basis; and Donation to the Baitul Mokarram Mosque Tk. 10,000.

Compute taxable income and tax liability of Mr. Anil Ambani for the assessment year 2017-18 assuming that he is a taxpayer of Dhaka City Corporation Area.

Solution 6 – 5:

Assessee: Mr. Anil Ambani

Assessment year: 2017 – 2018; Income year: 2016 – 2017

Determination of total income

Income From Salary (Section – 21):	Tk.	Tk.
(a) Basic salary [$(11,000 \times 9) + (12,000 \times 3)$]		135,000
(b) Dearness allowance ($135,000 \times 10\%$)		13,500
(c) Medical Allowance ($1,175 \times 12$)	14,100	
Less: Lower of Tk.120,000 or 10% of B.S. Tk. 13,500	13,500	600
(d) Bonus [$11,000 + 11,000 + 12,000$]		34,000
(e) Employer's contribution to RPF [$135,000 \times 10\%$]		13,500
(f) Interest on RPF @ 15%	1,500	
Less: exempted - lower of interest @ 14.5% i.e. [$(1,500 \div 15 \times 14.5) = 1,450$] or one-third of basic salary	1,450	50
(g) Rent free accommodation ($135,000 \times 25\%$)		33,750

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(h) Conveyance facility (Higher of Tk. 60,000 or 5% of B.S. i.e. Tk. 6,750)		60,000
(i) Entertainment allowance		13,375
(j) Arrear salary		30,000
(k) Travel Allowance	10,000	
(l) Less: Exempted - full	10,000	-
Total		<u>333,775</u>

Computation of Investment Allowance:

	Tk.
(i) Purchase of shares of listed company	2,000
(ii) Employee's & Employer's contribution to Recognized Provident Fund (13,500 × 2)	27,000
(iii) Payment of life Insurance Premium 4,000; maximum 10% of the policy value	3,500
(iv) Contribution to Deposit Pension Scheme (500 × 12)	6,000
Total	<u>38,500</u>

Investment Allowance: Eligible Amount for tax rebate

[A] Total Allowable Investment	Tk. 38,500
[B] 25% of the total income [excluding any income for which a tax exemption or a reduced rate is applicable under sub-section (4) of section 44 or any income from any source or sources mentioned in clause (a) of sub-section (2) of section 82C.] 25% of Tk. 333,775	Tk. 83,444
[C] 1.5 Crore	
Whichever is less	Tk. 38,500

Tax liability:

	Rate	Tk.
On the first Tk. 250,000	0%	Nil
On the next <u>83,775</u>	10%	<u>8,378</u>
Total <u>333,775</u>		<u>8,378</u>
Less: investment tax credit (38,500 × 15%)		<u>5,775</u>
Net tax liability		<u>2,603</u>

Since the computed tax liability is less than the minimum amount of tax i.e. 5,000, the net tax liability of Mr. Anil Ambani for the assessment year 2017-18 will be Tk. 5,000.

Illustration 6 – 6:

Ms. Nazmun Nahar is the head of Accounts of a multinational company in Bangladesh. She has joined the company on July 01, 2016 as her first job. She has received the following income for the year ended on 30th June, 2016. You are required to calculate the total income and tax liability of Ms. Nazmun Nahar for the assessment year 2017-18:

Basic pay Tk. 150,000 per month sent directly to her bank account; Rent free accommodation fully furnished by the company; The annual rental value of the house is Tk. 500,000; Full time company car for 24 hours for her own use and for her family; Company pays Tk. 20,000 per month for her two school going children which is paid to the school authority directly; She received two festival bonuses each equivalent to basic pay during the Eid time which she spent partly for her family

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and partly for the poor people in her village; Driver's salary of the full time car Tk. 10,000 per month paid to her driver's bank account; Company paid Tk. 205,000 to her during the year being the reimbursement of various utility bills of her house; Personal mobile bill paid by the company Tk. 5,000 per month.

She was paid Tk. 200,000 for her overseas travels for the official trip out of which she saved 25% during the year; Bill paid for the membership of an international club by the company Tk. 250,000. Medical allowance Tk. 15,000 per month; during the year actual medical expense was Tk. 100,000; Entertainment allowance Tk. 10,000 per month; actual expense in this regard Tk. 150,000; She has contributed 10% of her basic salary to a recognized provident fund. Her employer also contributed the same amount. Interest on the said fund @ 18% is Tk. 1,800 during the period; She has contributed 2% of her basic pay to a group insurance scheme.

During the year she has claimed the following expenditures as her investment allowance:

Purchase of Debentures from the primary market Tk. 25,000; Insurance premium Tk. 20,000 (Policy value Tk. 250,000); Household expenses Tk. 200,000; Payment to income tax lawyer Tk. 25,000; Purchase of Savings certificate Tk. 150,000; Donated Tk. 50,000 to the President's Relief Fund. Donated to Government Zakat Fund Tk. 25,000; Donated to Ahsania Mission Cancer Hospital Tk. 10,000; Installment paid for a 5 Katha Plot to the Bashundhara Group Tk. 40,000.

Solution 6 – 6:

Assessee: Ms. Nazmun Nahar

Assessment year: 2017 – 2018

Income year: 2016 – 2017

Determination of total income

	Tk.	Tk.
Income From Salary (Section – 21):		
(a) Basic salary ($150,000 \times 12$)		1,800,000
(b) Rent-free accommodation: Lower of rental value i.e. Tk. 500,000 or 25% of B.S. i.e. Tk. 4,50,000		450,000
(c) Conveyance facility (Higher of Tk. 60,000 or 5% of B.S. i.e. Tk. 90,000)		90,000
(d) School fee of children paid by the company		240,000
(e) Bonus ($150,000 \times 2$)		300,000
(f) Utility bills reimbursed by the company		205,000
(g) Mobile bill paid by the company ($5,000 \times 12$)		60,000
(h) Savings from travel allowance ($200,000 \times 25\%$)		50,000
(i) International club bill paid by the company		250,000
(j) Medical Allowance ($15,000 \times 12$)	180,000	
Less: Lower of Tk. 120,000 or 10% of B.S. i.e. Tk. 180,000	120,000	
		60,000
(k) Entertainment allowance ($10,000 \times 12$)		120,000
(l) Employer's contribution to RPF ($1,800,000 \times 10\%$)		180,000
(m) Interest on RPF @18%	1,800	
Less: Exempted – lower of interest @ 14.5% i.e. $[(1,800 \div 18 \times 14.5) = 1,450]$ or one-third of basic salary	1,450	350
Total		<u>3,805,350</u>

Computation of Investment Allowance

(i) Purchase of debentures	Tk. 25,000
(ii) Payment of life Insurance Premium 20,000 maximum (10% of the policy value i.e. 10% of 250,000 = 25,000)	20,000
(iii) Purchase of savings certificate	150,000
(iv) Contribution to President's Relief Fund	50,000
(v) Contribution to Government Zakat Fund	25,000
(vi) Contribution to Ahsania Mission Cancer Hospital	10,000
(vii) Employee's and Employer's contribution to RPF (180,000 × 2)	360,000
(viii) Contribution to Group Insurance Scheme (1,800,000 × 2%)	36,000
Total	<u>676,000</u>

Maximum limit of the investment allowance: 25% of Total income i.e. $[(3,805,350 \times 25\%) = 951,338$ or Tk. 15,000,000 whichever is less. So, the required amount of investment allowance on which tax rebate will be applicable is Tk. 676,000. So, the amount of tax rebate will be $[(250,000 \times 15\%) + (426,000 \times 12\%)] = \text{Tk. } 88,620$

Tax liability:			
		Rate	Tk.
On the first	Tk. 300,000	0%	Nil
On the next	400,000	10%	40,000
On the next	500,000	15%	75,000
On the next	600,000	20%	120,000
On the next	20,05,000	25%	501,250
Total	<u>3,805,350</u>		736,250
Less: Investment tax credit			88,620
Net tax liability			<u>647,630</u>

Note: (1) For women, non-assessable limit of total income is Tk. 300,000. **(2)** Driver's salary of full time car is not a part of her total income.

Illustration 6 – 7:

On July 2016, Mr. Tareq Anwar's basic salary falls on Tk. 52,000 in the scale of 40,000-4,000×8-72,000. His date of yearly increment is on 16th April. He received dearness allowance @ 20% of basic salary and medical allowance Tk. 3,000 per month. During the year his actual amount of medical expense was Tk. 30,000. He received two festival bonuses and one performance bonus each equivalent to one month's basic salary in the month of September, December and May respectively. He contributes 10% of his basic salary to a recognized provident fund from which he has also received an interest of Tk. 1,500 @ 15% interest. His employer also contributes the same amount to the RPF. He has been provided with a rent-free quarter annual rental value of Tk. 160,000 and a full time car by the employer. The maintenance cost of the car during the year was Tk. 10,000. Company gave him International Air ticket for a tour as a part of his service contract for which the company spent Tk. 35,000. During the year he has also received an entertainment allowance of Tk. 31,850 of which Tk. 27,500 has actually been spent. His taxable income from other sources was Tk. 300,000 during the year.

His investments during the year were: Purchase of shares of a private limited company Tk. 10,000; Purchase of shares of a registered partnership firm Tk. 8,000; Payment of his life insurance premium Tk. 12,000 (Policy value Tk. 100,000); Purchase of books and magazine Tk. 3,000; Contribution to a Superannuation fund Tk. 500 on a monthly basis; Donation to Lab Aid Hospital

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Tk. 15,000. Compute taxable income and tax liability of Mr. Tareq Anwar for the assessment year 2017-18, assuming that in current year his net asset is valued at Tk. 3 crore.

Solution 6 – 7:

Assessee: Mr. Tareq Anwar

Assessment year: 2017 – 2018; Income year: 2016 – 2017

Income from Salaries (Section – 21):	Tk.	Tk.	Tk.
(a) Basic salary $[(52,000 \times 9.5) + (56,000 \times 2.5)]$		634,000	
(b) Dearness allowance $(634,000 \times 20\%)$		126,800	
(c) Medical Allowance $(3,000 \times 12)$	36,000		
Less: Lower of Tk.120,000 or 10% of B.S. i.e. Tk. 63,400	<u>63,400</u>	-	
(d) Bonus $[52,000 + 52,000 + 56,000]$		160,000	
(e) Employer's contribution to RPF $[634,000 \times 10\%]$		63,400	
(f) Interest on RPF @15%	1,500		
Less: Exempted – Lower of interest @ 14.5% i.e. $[(1,500 \div 15 \times 14.5) = 1,450]$ or one-third of B.S. i.e. 2,11,333	<u>1,450</u>	50	
(g) Rent free accommodation: lower of rental value Tk. 160,000 or 25% of B.S. $(6,34,000 \times 25\%) = 1,58,500$		158,500	
(h) Conveyance facility (Higher of Tk. 60,000 or 5% of B.S. i.e. Tk. 31,700)		60,000	
(i) Entertainment allowance		<u>31,850</u>	
			1,234,600
Income from Other Sources			300,000
Total			<u>1,534,600</u>

Computation of Investment Allowance

(i) Payment of life Insurance Premium 12,000; maximum (10% of 100,000)	Tk. 10,000
(ii) Contribution to Superannuation fund (500×12)	6,000
(iii) Employee's and Employer's contribution to RPF $(63,400 \times 2)$	<u>126,800</u>
Total	<u>142,800</u>

Maximum limit of the investment allowance: 25% of Total income i.e. $[(1,534,600 \times 25\%) = 383,650]$ or Tk. 15,000,000 whichever is less. So, the required amount of investment allowance on which tax rebate will be applicable is Tk. 142,800.

Tax liability:

		Rate	Tk.
On the first	Tk. 250,000	0%	Nil
On the next	400,000	10%	40,000
On the next	500,000	15%	75,000
On the next	<u>384,600</u>	20%	<u>76,920</u>
Total	<u>1,534,600</u>		191,920
Less: Investment tax credit $(142,800 \times 15\%)$			<u>(21,420)</u>
Net tax liability			170,500
Add: 10% surcharge on tax payable			<u>17,050</u>
Net tax liability with surcharge			<u>187,550</u>

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Note: (1) Since his net wealth is more than Tk. 2.25 crore but less than Tk. 5 crore, he will be liable to pay 10% of tax liability as surcharge which is to be paid along with the tax liability of this income. (2) Investment in shares of private limited companies and partnership firms are not allowable investments.

Illustration 6 – 8:

Mr. Hasan Ahmed was the HR Manager of Axiata Bangladesh Ltd. On July 2016, his basic salary was Tk. 52,000 in the scale of 40,000 - 4,000 × 8 - 72,000. His date of yearly increment is on 26th March. He has resigned from Axiata Bangladesh Ltd on 30th April, 2017 and Joined Grameenphone Ltd on 1st June of the same year. His taxable income from other sources was Tk. 200,000 during the year. During the year total TDS from various sources of his income was Tk. 20,000. Moreover, his refund claims of Tk. 10,000 for additional payment of tax in the last assessment year was to be adjusted with current year's tax liability.

His investments during the year include purchase of a laptop Tk. 110,000; payment of his life insurance premium Tk. 20,000 (Policy value Tk. 500,000) and contribution to DPS Tk. 3,000 per month. During the income year his income from salary from Axiata Bangladesh Ltd and Grameenphone Ltd. is given below. Considering all the given information compute taxable income and tax liability of Mr. Hasan Ahmed for the year.

From Axiata: He received dearness allowance @ 10% of basic salary and medical allowance Tk. 2,000 per month. He received two festival bonuses each equivalent to one month's basic salary in the month of September and April respectively. He contributes 10% of his basic salary to a recognized provident fund. He has been provided with a rent-free quarter and a full time car by the employer. During the year he has also received an entertainment allowance of Tk. 1,000 per month. He has received compensation for the termination of Tk. 250,000 and gratuity of Tk. 100,000. Moreover, his accumulated balance from the RPF was Tk. 180,000.

From Grameenphone: His basic is Tk. 60,000 per month with 40% house rent allowance and Tk. 5,000 medical allowance per month. He is also entitled to receive Tk. 4,000 conveyance allowance per month. He and his employer both contributed 10% of his basic salary to a RPF.

Solution 6 – 8:

Assessee: Mr. Hasan Ahmed

Assessment year: 2017 – 2018; Income year: 2016 – 2017

Determination of total income

	Tk.	Tk.	Tk.
Income from Salaries (Section – 21):			
(a) Basic salary (Total)		584,774	
(b) Dearness allowance (Axiata) $(524,774 \times 10\%)$		52,477	
(c) Medical Allowance (Total) $[(2,000 \times 10) + 5,000]$	25,000		
Less: Lower of Tk.120,000 or 10% of B.S. i.e. Tk. 58,477	58,477		-
(d) Bonus $[52,000 + 56,000]$		108,000	
(e) Employer's contribution to RPF (Total) $[584,774 \times 10\%]$		58,477	
(f) Rent free accommodation (Axiata): 25% of basic salary		131,194	
(g) Conveyance facility (Axiata) [Higher of Tk. 60,000 or 5% of B.S. i.e. Tk. 26,239]		60,000	
(h) Entertainment allowance (Axiata) $[1,000 \times 10]$		10,000	
(i) Gratuity (Axiata)	100,000		
Less: Exemption: Full	100,000		-

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(j) Compensation (Axiata)	250,000	
(k) Accumulated balance of RPF (Axiata)	180,000	
Less: Exemption: Full	180,000	
(l) House Rent Allowance (Grameenphone) [60,000 × 40%]	24,000	
Less: Exempted Tk. 25,000 per month or 50% of Basic salary i.e. 30,000 whichever is lower	25,000	
(m) Conveyance allowance	4,000	
Less: Exempted – Up to Tk. 30,000	4,000	1,254,922
Income from Other Sources		200,000
Total		<u>1,454,922</u>

Computation of Investment Allowance

(i) Purchase of laptop (allowable up to Tk. 100,000)	Tk. 100,000
(ii) Payment of life Insurance Premium 20,000; maximum 10% of policy value	20,000
(iii) Contribution to DPS (3,000 × 12)	36,000
(iv) Employee's and Employer's contribution to RPF (58,477 × 2)	116,954
Total	<u>272,954</u>

Maximum limit of the investment allowance: 25% of Total income i.e. $[(1,454,922 \times 25\%) = 363,731$ or Tk. 15,000,000 whichever is less. So, the required amount of investment allowance on which 15% tax rebate will be applicable is Tk. 272,954. The eligible amount of tax rebate will be $[(250,000 \times 15\%) + (272,954 \times 12\%)] = \text{Tk. } 40,254$

Tax liability:

		Rate	Tk.
On the first	Tk. 250,000	0%	Nil
On the next	400,000	10%	40,000
On the next	500,000	15%	75,000
On the next	304,922	20%	60,984
Total	<u>1,454,922</u>		175,984
Less: Investment tax credit			(40,254)
TDS			(20,000)
Refund adjustment (Note – 1)			(10,000)
Net tax liability			<u>105,730</u>

Note: (1) Basic Salary: Axiata: From July 16 to February 17 [Tk. 52,000 × 8] Tk. 416,000 plus for March 17 $[(52,000 \times 25/31) + (56,000 \times 6/31)]$ Tk. 52,774 plus for April 17 Tk. 56,000 = Total Tk. 524,774. Grameenphone: For June 17 Tk. 60,000. Total Basic salary Tk. 584,774. (2) Since conveyance allowance is received from a separate company, the exemption limit has been considered. (3) In the month of May he was not employed.

Illustration 6 – 9:

Mr. Nisar Ahmed, a Bangladeshi citizen, joined S. Group in Dhaka on 1.11.16 with a consolidated salary of Tk. 180,000 (60% basic and 40% house rent). He stayed in Doha in a job from 1.03.13 and came back to Bangladesh on 17.10.16. During 1.03.13 to 17.10.16, he visited Bangladesh for 60 days in each fiscal year. In addition to basic and house rent, Mr. Ahmed also enjoys the following benefits during the period:

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Full time car with Tk. 20,000 per month as allowance for maintenance; 10% of basic as entertainment allowance (he spent the full amount); servant allowance Tk. 2,000 per month; Tk. 71,600 as profit bonus; Medical allowance Tk. 2,000 per month (Actual exp. Tk. 20,000); Leave encashment 12 days basic salary; Mr. Ahmed contributes 10% of his basic salary to a recognized provident fund like his employer; As per the terms of employment, Mr. Ahmed received Tk. 150,000 for travelling abroad (he actually spent Tk. 135,000 for the purpose).

Mr. Ahmed has made investments during the period as: Contribution to DPS Tk. 10,000 per month; Purchase of shares: Primary Tk. 50,000; Secondary Tk. 100,000 and Mohamedan Sporting Clubs share Tk. 30,000; Purchase of debenture from DSE Tk. 30,000; Purchased a personal desktop computer spending Tk. 60,000; Donated to Bongabondhu National Museum Tk. 60,000; Purchase of government Treasury bond Tk. 50,000; His net asset amounted to Tk. 11 crore.

Requirements: Compute taxable income and tax liability of Mr. Ahmed for the assessment year 2017-18 assuming total tax deducted at sources amount Tk. 120,000.

Solution 6 – 9:

Mr. Nisar Ahmed
Assessment Year: 2017 – 2018
Income Year: 2016 – 2017
Determination of Total Taxable Income

Income from Salaries (Section – 21)	Tk.	Tk.
(a) Basic Salary (Tk. 108,000 × 8 months)		864,000
(b) House Rent Allowance (Tk. 72,000 × 8 months)	576,000	
Less: exempted – lower of 50% of basic (Tk. 432,000) or Tk. 25,000 per month for 8 months (Tk. 160,000)	<u>200,000</u>	376,000
(c) Conveyance facility (Higher of Tk. 60,000 or 5% of B.S. i.e. Tk. 43,200)		60,000
(d) Allowance for maintenance (Tk. 20,000 × 8)		160,000
(e) Entertainment allowance (Tk. 864,000 × 10%)		86,400
(f) Servant allowance (Tk. 2,000 × 8)		16,000
(g) Profit bonus		71,600
(h) Medical allowance (Tk. 2,000 × 8)	16,000	
Less: Lower of Tk.120,000 or 10% of B.S. i.e. Tk. 86,400	<u>86,400</u>	-
(i) Leave encashment (108,000 ÷ 30 × 12)		43,200
(j) Employer's contribution to recognized provident fund – 10%		86,400
(k) Travelling allowance (savings)		<u>15,000</u>
Total Taxable Income		<u>17,78,600</u>

Allowable Investment Allowance (Actual):

Deposit Pension Scheme Tk. 120,000 (Max. allowable Tk. 60,000)	Tk. 60,000
Purchase of primary and secondary shares	150,000
Purchase of debenture	30,000
Purchase of desktop computer Tk. 60,000 (Max. allowable Tk. 50,000)	50,000
Donation to Bongabondhu National Museum	60,000
Purchase of government treasury bond	50,000
Contribution to Recognized Provident Fund (86,400 × 2)	<u>172,800</u>
Total	<u>572,800</u>

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Allowable Investment Allowance (Maximum Limit):

25% of Total Income [25% of Tk. 17,78,600]	Tk.444,650
Or, Tk. 15,000,000	15,000,000
Lower one	444,650
Thus, allowable investment allowance will be	444,650

Computing Tax Liability

		Rate	Tk.
On the first	Tk. 250,000	0%	Nil
On the next	400,000	10%	40,000
On the next	500,000	15%	75,000
On the next	600,000	20%	120,000
On the next	28,600	25%	7,150
Total	<u>17,78,600</u>		242,150
Less: Investment tax credit			60,858
	Net tax liability		181,292
Add: Surcharge @20%			36,258
Total tax liability for tax and surcharge			217,550
Less: Tax Deducted at Source			120,000
Net Payable amount			<u>97,550</u>

Note: (1) Tax rebate on investment allowance will be $[(250,000 \times 15\%) + (194,650 \times 12\%)] = \text{Tk. } 60,858$ [(As his net wealth is more than Tk. 10 crore but less than Tk. 15 crore, 20% surcharge on net tax liability will be applicable).

Illustration 6 – 10:

On April 30, 2017, Mr. Hasan retired as an accountant from a private limited company. Before retirement, during the income year 2016-2017 he received the following incomes:

On, April 2017, his basic salary falls on Tk. 20,000 in the scale of 16,000-2,000×3-22,000. His date of yearly increment is on 18th March. Besides, he received

- (a) Dearness allowance @ 10% of basic salary
- (b) Tk. 100,000 for Eye operation related medical expense reimbursement
- (c) 60% of his basic salary as house rent allowance.
- (d) Conveyance allowance Tk. 2,000 per month
- (e) Two festival bonuses each equivalent to one month's basic salary- received in the month of October and April respectively
- (f) He contributes 10% of his basic salary to an unrecognized provident fund.

After his retirement in May, 2017 he has received the accumulated balance of his unrecognized provident fund total Tk. 256,000 (employer's contribution Tk. 100,000, employee's contribution Tk. 100,000 and accumulated interest Tk. 56,000); He has also received Tk. 300,000 as gratuity and Tk. 40,000 from Worker's Participation Fund; The company has given him complimentary travel allowance of Tk. 40,000 as a reward for his good performance in the company. His actual expense is Tk. 13,000 in this regard.

His additional income includes income from house property Tk. 300,000; income from agriculture Tk. 50,000 and income from other sources Tk. 200,000.

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His investments during the year were: Purchase of laptop Tk. 60,000; Purchase of Bangladesh savings certificate Tk. 50,000; Donation to Islamia Eye Hospital Tk. 5,000; Purchase of Gift Cheque Tk. 3,000; Purchase of Microwave oven Tk. 10,000; Donation as Zakat to poor relatives Tk. 10,000; Donation to Jatio Muktiyuddho Jadughor Tk. 5,000; Donation to Aga Khan Development Network Tk. 10,000 and Contribution to DPS Tk. 6,000 per month.

TDS deducted from his salary amounted to Tk. 10,000 and he has also paid advance tax of Tk. 15,000 for renewing the registration of his own personal car. Compute taxable income and tax liability of Mr. Hasan for the assessment year 2017-18 assuming that he is disable/handicapped.

Solution 6 – 10:

Assessee: Mr. Hasan

Assessment year: 2017 – 2018; Income year: 2016 – 2017

Determination of total income

Income From Salary (Section – 21):	Tk.	Tk.	Tk.
(a) Basic salary [Note 1]		182,903	
(b) Dearness allowance (182,903 × 10%)		18,290	
(c) Medical Exp.	100,000		
Less: Exempted - Full	100,000	-	
(d) House Rent All. [182,903 × 60%]	109,742		
Less: Tk. 250,000 (10 × 25,000 per month) or 50% of B.S. i.e. Tk. 91,450; lower one	91,450	18,292	
(e) Conveyance allowance	24,000		
Less: Exempted [up to Tk. 30,000]	24,000	-	
(f) Bonus [18,000 + 20,000]		38,000	
(g) Accumulated balance of unrecognized provident Fund [100,000 + 56,000]		156,000	
(h) Gratuity	300,000		
Less: Exempted - Full	300,000	-	
(i) Receipt from Worker's Participation Fund	40,000		
Less: Exempted – upto Tk. 50,000	50,000	-	
(j) Travel allowance		40,000	428,485
Income from House Property			300,000
Income from Agriculture			50,000
Income from Other Sources			200,000
Total			<u>10,03,485</u>

Computation of Investment Allowance:

Particulars	Tk.
(i) Purchase of laptop	60,000
(ii) Purchase of Bangladesh Savings Certificate	50,000
(iii) Donation to Islamia Eye Hospital	5,000
(iv) Donation to Jatio Muktiyuddho Jadughor	5,000
(v) Donation to Aga Khan Development Network	10,000
(vi) DPS	60,000
Total	<u>190,000</u>

Maximum limit of the investment allowance: 25% of Total income $[10,03,485 \times 25\%] = 250,871$ or Tk. 15,000,000 whichever is less. So, the maximum limit is Tk. 250,871. The required amount of investment allowance on which 15% tax rebate will be applicable is lower of actual investment and maximum limit i.e. Tk. 190,000.

Tax liability:

		Rate	Tk.
On the first	Tk. 400,000	0%	Nil
On next	400,000	10%	40,000
On next	<u>203,485</u>	15%	<u>30,523</u>
Total	<u>10,03,485</u>		<u>70,523</u>
Less: investment tax credit $(190,000 \times 15\%)$			<u>28,500</u>
			42,023
Less: TDS + Advance tax			<u>25,000</u>
Net tax liability			<u>17,023</u>

Note: (1) $[(18,000 \times 8) + \{(18,000 \times 17/31) + (20,000 \times 14/31)\} + (20,000 \times 1)] = 182,903$ (2) Accumulated balance of unrecognized prov. Fund is taxable to the extent of employer's contribution and interest amount. (3) Medical expense was received for eye surgery, so fully exempted. (4) Travel allowance is fully taxable as it is not given as a part of contract. (5) As he is disable, First Tk. 375,000 will be non assessable.

KEY POINTS

1. Salary means periodical payment made to an employee from an employer for the services rendered to him and includes wages, annuity, pension or gratuity, any perquisites etc.
2. Perquisite is a causal emolument or benefit attached to an office or position in addition to salary or wages which may be given in a variety of forms.
3. Medical allowance is exempted from tax by the amount of actual spending in such purposes.
4. Any amount received to support house rent is exempted from tax by 50% of basic salary or Tk. 300,000 per year (Monthly Tk. 25,000), whichever is lower. On the other hand any rent free accommodation facilities is taxable considering 25% of basic salary or the annual value of the house, whichever is lower as perquisite received by the employee.
5. Conveyance allowance is taxable on the amount exceeds Tk. 30,000 per year and for any conveyance facilities for personal purpose (full or partial) is taxable considering higher of Tk. 60,000 or 5% of basic salary as income. But if someone received both allowance and facilities, no exemption is allowable.
6. Full of pension and up to Tk. 2.5 crore of gratuity is exempted from tax for a resident assessee.
7. Employer's contribution to recognized provident fund will be considered as income.
8. Receipt of arrear salary will be added to the total income if has not been considered earlier in the computation of total income.
9. Any person who is responsible for paying salary shall deduct income tax on the amount payable at the average rate which shall be adjusted against the tax liability of the assessee at the time of regular assessment.
10. If the employee contributes to deferred annuity, government provident fund or recognized provident fund, approved superannuation fund, benevolent fund or group insurance scheme can get investment tax rebate on such contribution.

Multiple choice questions:

1. Perquisites includes followings except –
 - (a) leave encashment
 - (b) rent free accommodation
 - (c) concession rate accommodation
 - (d) basic salary
2. Which of the following provident fund is applicable for government employees with pension benefit –
 - (a) contributory provident fund
 - (b) general provident fund
 - (c) recognized provident fund
 - (d) unrecognized provident fund
3. Which of the following contribution by employee to PF is not eligible for tax rebate –
 - (a) contributory provident fund
 - (b) general provident fund
 - (c) recognized provident fund
 - (d) unrecognized provident fund
4. For house rent allowance how much is exempted from tax –
 - (a) 50% of basic salary
 - (b) Tk. 25,000 per month
 - (c) 25% of basic salary
 - (d) lower of a and b
5. How much of medical allowance is exempted from tax –
 - (a) full
 - (b) Tk. 60,000
 - (c) Lower of Tk.120,000 or 10% of B.S.
 - (d) Actual expense
6. How much of conveyance facilities is exempted from tax –
 - (a) 5% of basic salary
 - (b) Tk. 30,000
 - (c) actual spending
 - (d) none
7. which of the following statement is false –
 - (a) employer's contribution to RPF will be added to calculate tax payable income
 - (b) employee's contribution to RPF will be added to calculate tax payable income
 - (c) employer's contribution to RPF will get investment tax rebate
 - (d) employee's contribution to RPF will get investment tax rebate
8. How much of interest on RPF will add to calculate tax payable income –
 - (a) Interest @ 14.5%
 - (b) Interest exceeding @ 14.5%
 - (c) Interest exceeding 1/3 of basic salary
 - (d) Lower of b and c
9. What is the rate of interest on government provident fund –
 - (a) 13.5%
 - (b) 14.5%
 - (c) 15.5%
 - (d) 16.5%

Chapter – 6: Income from Salary

10. Followings are the example of non-assessable income except –

- (a) Pension
- (b) Travel allowance given for official purpose
- (c) Festival bonus
- (d) Accumulated balance of RPF

Identify the following statements as True (T) or False (F):

1. Employee contributes nothing in approved gratuity fund.
2. The amount received at retirement from unrecognized provident fund is taxable.
3. Gratuity is fully exempted.
4. Rate of interest applicable for contributory provident fund is 15%.
5. When employer fails to deduct TDS an additional surcharge need to pay @2% per month on the tax amount.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 6 – 1:** “Perquisite is a causal emolument or benefit attached to an office or position in addition to salary or wages” – explain the statement according to ITO, 1984.
- Question 6 – 2:** What is a provident fund? Explain different types of provident fund and identify distinguished features of each type.
- Question 6 – 3:** Differentiate between government and non government provident fund.
- Question 6 – 4:** Explain the effect of different types of provident fund in assessment of income tax.
- Question 6 – 5:** Differentiate approved superannuation fund from approved gratuity fund.
- Question 6 – 6:** “Any person who is responsible for paying salary shall deduct income tax on the amount payable at the average rate” – explain the statement according to the ITO, 1984.
- Question 6 – 7:** What is non-assessable income? Explain the non-assessable income under the head income from salary.
- Question 6 – 8:** Write short note on:
- (a) Perquisites
 - (b) Recognized provident fund (RPF)
 - (c) Tax exempted income under the head income from salary
 - (d) TDS under the head income from salary

Answer the following questions based on the given cases:

Case 6 – 1:

Mr. Zahid receives basic salary of Tk. 18,000 per month in the income year 2016 – 2017. Besides basic salary he received house rent allowance @ 55% of basic salary; conveyance allowance of Tk. 2,000 per month; medical allowance @ 15% of basic salary. He and his employer both contribute 10% of basic salary into a recognized provident fund (RPF). From that fund he also received interest of Tk. 8,000 at an interest rate of 16% per annum.

1. How much is Mr. Zahid’s tax payable income from house rent allowance:
 (a) 2,16,000 (b) 1,18,800 (c) 10,800 (d) 54,000
2. How much is Mr. Zahid’s tax payable income from conveyance allowance:
 (a) 6,000 (b) 24,000 (c) 16,200 (d) Nil

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3. How much is Mr. Zahid's tax payable income from medical allowance:
(a) 21,600 (b) 10,800 (c) 32,400 (d) Nil
4. How much is Mr. Zahid's tax payable income as interest from RPF:
(a) 8,000 (b) 7,250 (c) 750 (d) 72,000
5. How much of Mr. Zahid's contribution to RPF is taxable income:
(a) 21,600 (b) 43,200 (c) 10,800 (d) None

Case 6 – 2:

Mr. Kabir receives basic salary of Tk. 40,000 per month. Besides the basic salary Mr. Kabir is supposed to get conveyance allowance of Tk. 2,000 per month and also a full time car. He also receives accommodation facilities but the company charges him Tk. 2,000 per month for the house.

1. How much is Mr. Kabir's taxable income from concession rate accommodation:
(a) 1,20,000 (b) 2,40,000 (c) 96,000 (d) 24,000
2. How much is Mr. Kabir's total taxable income:
(a) 6,36,000 (b) 624,000 (c) 6,60,000 (d) 7,80,000

Case 6 – 3:

Mr. Sumon receives salary following salary scale of 18,000 – 1,500 X 3 – 22,500 and he received Tk. 19,500 salary in the month of December, 2016. His date of increment is 18th January of every year. Now calculate Mr. Sumon's basic salary for the income year 2016 – 2017:

- (a) 2,60,177 (b) 2,42,177 (c) 2,34,000 (d) 2,24,177

Problem 6 – 1:

Mr. Pritom is a service holder. His sources of income for the year ended 30th June, 2017 were: Basic Salary Tk. 27,500 per month; Medical Allowance Tk. 1,000 per month; Conveyance Allowance 5% of Basic Salary; Performance Bonus 4 months Basic Salary; and Leave encashment 10 days leave. He has been provided with a car both for personal use and office purpose and also a rent free furnished house with annual rental value of Tk. 50,000. He received two festival bonuses each equal to 50% of a month's basic salary. He contributed 10% of basic salary to Recognized Provident Fund (RPF) and his employer also contributed the same amount. He received interest @ 15% Tk. 20,000 on the accumulated balance of RPF.

Requirement: Calculate Mr. Pritom's income under the head income from salary.

Problem 6 – 2:

Mr. Limon is a service holder. His sources of income for the year ended 30th June, 2017 were: Basic Salary Tk. 25,000 per month; House rent Allowance 70% of Basic Salary; Medical Allowance Tk. 1,250 per month; Conveyance Allowance 7.5% of Basic Salary; Performance Bonus 5 months Basic Salary; and Dearness Allowance 10% of Basic Salary. He has been provided with a car both for personal use and office purpose. He received two festival bonuses each equal to a month's basic salary. He contributed 10% of basic salary to Recognized Provident Fund (RPF) and his employer also contributed the same amount. He received interest @ 15% Tk. 15,000 on the accumulated balance of RPF.

Requirement: Calculate Mr. Limon's income under the head income from salary.

Problem 6 – 3:

Mr. Mahfuz is a service holder. He received basic salary of Tk. 22,500 in the month of July 2016 following the salary structure of 18,000 – 1,500 X 4 – 24,000. The date of annual increment is 16th

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November. Besides basic salary he received: Medical Allowance Tk. 1,500 per month; Conveyance Allowance Tk. 2,500 per month; Entertainment Allowance Tk. 500 per month; Performance bonus Tk. 80,000; Mobile bill allowance Tk. 2,000 per month; and Overtime allowance Tk. 25,000. He has been provided free furnished accommodation for which the company paid rent of Tk. 5,500 per month. He received two festival bonuses (one in October and another in December) each equal to one month's basic salary. He contributed 10% of basic salary to Recognized Provident Fund (RPF) like his employer. He received interest @ 16% Tk. 12,800 on the accumulated balance of RPF.

During the year he incurred and made the following expenses and investments:

Life insurance premium paid: Own (policy value Tk. 500,000) Tk. 60,000 and Spouse (policy value Tk. 300,000) Tk. 25,000; Family expenses Tk. 85,000; Contribution to approved superannuation fund Tk. 48,000; Purchase of shares: Initial public offerings Tk. 40,000; Unlisted company Tk. 30,000; Listed company Tk. 22,000; Donated to: Prime Minister's Relief Fund Tk. 15,000; Religious institution Tk. 10,000; Zakat fund Tk. 30,000; Dhanmondi Sports club Tk. 8,000; Deposited to Pension Scheme per month Tk. 6,000; Purchase of books Tk. 12,000; Purchase of land Tk. 80,000 and Purchase of motor vehicles Tk. 250,000.

Requirements: Calculate taxable income and net tax liability for the assessment year 2017 – 18.

Problem 6 – 4:

Mr. Mozumder is an executive of a private telecommunication firm. He received basic salary of Tk. 35,000 per month with: House rent allowance 50% of basic salary; Medical allowance Tk. 3,500 per month; Conveyance allowance Tk. 2,500 per month; Traveling allowance Tk. 60,000; Performance bonus Tk. 80,000 and Overtime allowance Tk. 25,000.

He has been provided with a full time car that he can use both for office and personal purposes. In this income year he saved Tk. 13,000 from Medical Allowance. He received two festival bonuses (one in the month of December another in February) each equal to one and half month's basic salary. He contributed 10% of basic salary to Recognized Provident Fund (RPF) and his employer also contributed the same amount. He received interest @ 16% Tk. 67,200 on the accumulated balance of RPF. He also contributed 5% of basic salary to a group insurance premium.

Because of a salary restructure Mr. Mozumder received Tk. 40,000 as basic salary from the month of February. During the year he incurred and made the expenses and investments for: Life insurance premium paid (Policy value Tk. 300,000) Tk. 15,000; Purchase of land Tk. 295,000; Purchase of shares from primary market Tk. 5,000; Purchase of shares of an unlisted company Tk. 30,000; Purchase of savings certificate Tk. 15,000; Donated to: Religious institution Tk. 10,000; Zakat fund Tk. 6,000; Sobujbag Sporting club Tk. 8,000; and Purchase of motor vehicles Tk. 250,000

Requirement: Calculate net tax liability for Mr. Mozumder for the assessment year 2017 – 18.

Problem 6 – 5:

Ms. Rabeya is a service holder. Following are the particulars of her income from salary for the year ended on 30th June 2017. Compute taxable income from salary and investment allowance.

Basic salary Tk. 40,000 per month; Dearness allowance 10% of Basic salary; Two festival bonuses and one performance bonus each equal to one month's basic salary; She has been provided with a rent free quarter, the annual rental value of which is Tk. 60,000; She has been provided with a car

for official purpose; Tk. 200,000 for Open Heart Surgery; During the year she received Tk. 6,000 as traveling allowance and Tk. 60,000 from Worker's Participation Fund.

Her contribution to a statutory provident fund @ 10% of basic salary; Interest on provident fund @ 13% on accumulated balance equivalent to Tk. 2,500; She is given a servant allowance of Tk. 200 per month; She contributes 1% of his basic salary to the Group Insurance Scheme; She has paid Tk. 500 per month on a Deposit Pension Scheme.

Problem 6 – 6:

Mr. Nahid is a service holder. Following are the particulars of his income from salary for the year ended on 30th June 2017. Compute taxable income from salary.

Basic salary Tk. 35,000 per month; Dearness allowance 10% of Basic salary; Two festival bonuses each equal to one month's basic salary; He has been provided with a house at a concessional rate for which Tk. 1,000 per month is deducted from his salary. The annual value of the house is Tk. 70,000; He has been provided with a car for both office and private use. In addition to it, he is also provided with Tk. 2,000 per month as conveyance allowance; He has also been provided with telephone facilities at his residence. The bill for this telephone reimbursed amounted to Tk. 12,000. During the year he received advance salary of Tk. 16,000; His contribution to unrecognized provident fund @ 10% of basic salary. The employer also contributes the same amount; Compensation received from previous employer Tk. 30,000; Leave encashment Tk. 20,000; Gratuity received Tk. 50,000; and Overtime received Tk. 5,000.

Problem 6 – 7:

On June 2017, Mr. Areean's basic salary falls on Tk. 10,200 in the scale of 9,600-200×12-12,000. His date of yearly increment is on 26st April. He received dearness allowance @ 10% of basic salary and medical allowance Tk. 300 per month. He received two bonuses equivalent to one month's basic salary-one received before the date of increment and another after increment. He contributes 10% of his basic salary to a recognized provident fund from which he has also received an interest of Tk. 1,500 @ 14% interest. His employer also contributes the same amount to the RPF.

He has been provided with a rent-free quarter and a car for both official and personal purpose. He is also provided with cash conveyance allowance of Tk. 2,000 per month. During the year he has also received an entertainment allowance of Tk. 5,000 of which Tk. 4,500 has actually been spent. His investments during the year were: Purchase of shares of a unlisted company Tk. 2,000; Purchase of land Tk. 10,000; Payment of his life insurance premium Tk. 4,000 (Policy value Tk. 45,000); Purchase of books and magazine Tk. 3,000; and Contribution to a Deposit Pension Scheme Tk. 500 on a monthly basis.

Requirement: Compute taxable income and tax liability of Mr. Areean.

Problem 6 – 8:

Mr. Nazmul Haque is the head of the Department of Business Administration of a reputed private university in Bangladesh. He has joined the university on July 01, 2016. He has received the following income for the year ended on 30th June, 2017. You are required to calculate the total income and tax liability of Mr. Nazmul Haque for the year:

Basic pay Tk. 100,000 per month sent directly to his bank account; He has been provided with accommodation fully furnished by the university; the annual rental value of the house is Tk.

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250,000; 10% of his basic salary is deducted for this purpose; Full time car for 24 hours for his own and family use; Company pays Tk. 20,000 per month for his two school going children which is paid to the school authority directly; He received two festival bonuses and one performance bonus each equivalent to basic pay during the Eid time which he spent partly for his family and partly for the poor people in his village; Driver's salary of the full time car Tk. 7,000 per month paid to driver's bank account.

Company has also paid Tk. 200,000 to him during the year being the reimbursement of various utility bills of his house; Office phone and mobile bill paid by the university Tk. 20,000 during the year; He was paid Tk. 200,000 for his overseas travels for the official conference out of which he saved 25% during the year; Bill paid for the membership of Dhaka club by the university Tk. 100,000; Medical allowance Tk. 10,000 per month; Entertainment allowance Tk. 10,000 per month; actual expense in this regard Tk. 150,000; He has contributed 10% of her basic salary to an unrecognized provident fund. His employer also contributed the same amount. Interest on the said fund @ 18% is Tk. 1,800 during the period; He has contributed 2% of her basic pay to a group insurance scheme.

During the year he has claimed investment allowance for:

Purchase of Debentures from the secondary market Tk. 25,000; Insurance premium Tk.20,000 (Policy value Tk. 250,000); Household expenses Tk. 200,000; Payment to his teaching assistant Tk. 25,000; Purchase of government treasury bond Tk. 100,000; Donated Tk. 50,000 to the Prime Minister's Relief Fund; Donated to Government Zakat Fund Tk. 25,000; Donated to his children's school Tk. 10,000; and Loan installment paid to Prime bank Tk. 40,000 (including Tk. 2,000 interest).

Problem 6 – 9:

On June 2017, Ms. Tania Amir's basic salary falls on Tk. 56,000 in the scale of 40,000-4,000×8-72,000. Her date of yearly increment is on 21st March. She received dearness allowance @ 20% of basic salary and medical allowance Tk. 3000 per month. She received two festival bonuses and one performance bonus each equivalent to one month's basic salary in the month of September, December and May respectively.

She contributes 10% of his basic salary to a recognized provident fund from which she has also received an interest of Tk. 1,500 @ 15% interest. Her employer also contributes the same amount to the RPF. She has been provided with 60% of his basic salary as house rent allowance and a full time car by the employer. Company gave her International Air ticket for a tour as a reward for her performance in addition to her service contract for which the company spent Tk. 50,000. During the year she has also received an entertainment allowance of Tk. 10,000 of which Tk. 7,500 has actually been spent. Her taxable income from other sources was Tk. 400,000 during the year.

Her investments during the year were: Purchase of shares of a secondary shares of public limited company Tk. 10,000; Purchase of shares of a registered partnership firm Tk. 8,000; Payment of her life insurance premium Tk. 12,000 (Policy value Tk. 1,00,000); Purchase of books and magazine Tk. 3,000; Contribution to a benevolent fund Tk. 500 on a monthly basis; Donation to a mosque Tk. 5,000; and Donation to Anjuman Mufidul Islam Tk. 6,000.

Required:

Compute taxable income and tax liability of Ms. Tania Amir for the assessment year 2017 – 2018, assuming that his net wealth during the year amounted to Tk. 3 crore.

Answers:

Multiple choice questions		True/False
1. d	6. d	1. T
2. b	7. b	2. T
3. d	8. d	3. F
4. d	9. a	4. F
5. c	10. c	5. T

Self review 6 – 1:

From 01/07/2016 to 31/03/2017 for nine months @ Tk. 6,800	61,200
From 01/04/2017 to 30/06/2017 for three months @ [(6,800+200) ×3]	<u>21,000</u>
	<u>82,200</u>

Self review 6 – 2:

(a) Rent free accommodation:

25% of Basic salary
Annual rental value

Tk. 45,000
40,000

Lower one Tk. 40,000

(b) Conveyance facilities:

Higher of Tk. 60,000 or 5% of Basic salary i.e. Tk. 9,000

Tk. 60,000

(c) Income from salary:

Basic salary	Tk. 1,80,000
Rent free accommodation	40,000
Conveyance facilities	60,000
Leave encashment [(15,000/30) X 11]	<u>5,500</u>

Tk. 2,85,500

Self review 6 – 3:

General Provident Fund	Recognized Provident Fund
Govt. manages this fund within Bangladesh in taka.	Fund is managed by two or more trustee under any trust or government trust.
Government as an employee contributes nothing.	Employer will contribute but not more than the employee contribution.
Interest rate is 13.5% on this fund	It depends on where the fund is invested
Interest on this fund will not be added with salary	Interest on this fund will be added with salary exceeding interest @ 14.5% or 1/3 of basic salary whichever is lower

CHAPTER – 7

INCOME FROM INTEREST ON SECURITIES

LEARNING OBJECTIVES

After studying Chapter 7, you shall be able to understand:

- ⊕ the concept of income from interest on securities
- ⊕ basis of taxation of interest on securities
- ⊕ classification of securities
- ⊕ concept of interest grossing up
- ⊕ admissible expenses and exemptions
- ⊕ cum interest and bond washing transaction
- ⊕ TDS under the head interest on securities

“Income from Interest on Securities” is the second head of computing the total income of an assessee. An assessee may invest his fund in various types of securities. The income received by way of interest from those securities will be taxable under this head.

7.0 MEANING OF “INTEREST” AND “SECURITIES”

Interest: Generally the term “Interest” means the price that someone pays for the temporary use of someone else’s funds. According to Section 2(38) of the ITO, 1984 – ‘Interest’ means interest payable in any manner in respect of any money borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the money borrowed or debt incurred or in respect of any credit facility which has not been utilized. In such a context, interest on securities can be defined as sum of interest payable against securities issued by the government or other organizations.

Securities: The word “Security” is not defined under the Act. The Shorter Oxford English Dictionary defines the word “security” as a “document held by a creditor as guarantee of his right to payment”. In other words, Securities are financial instruments that represent a creditor relationship with a corporation or government. Generally they represent agreements to receive a certain amount depending on the terms contained within the agreement.

7.1 SCOPE OF “INCOME FROM INTEREST ON SECURITIES”

According to Section 22 of the ITO, 1984, the following incomes of an assessee shall be classified and computed under the head ‘Interest on Securities’:

- (a) interest receivable by the assessee on any security of the Government or any security approved by Government [Sec 22(a)]; and
- (b) interest receivable by him on debentures or other securities of money issued by or on behalf of a local authority or a company [Sec 22(b)].

7.2 BASIS OF TAXATION ON INTEREST ON SECURITIES

According to Section 22 of the ITO, 1984 the chargeability of interest on securities is on receivable basis. Theoretically, it means that interest on securities will be taxable in the period when it is earned whether it has been received or not. But in practice, interest on securities will be taxed in

the year of actual receipt. The term “Receivable” referred to the quantum of interest taxable and not to the point of time, at which it was taxable. The word “Receivable” without the actual receipt carries no meaning under this section [Seth Lalbhai Dalpatbhai vs CIT. (1952), 22 ITR 13 (Bom)]. The Lahore High Court [Central Exchange Bank Ltd. of Lahore vs CIT, (1955), 27 ITR 167 & (1960) tax Suppl.] and the Madras High Court [Karumuthu Thiagaraja Chettiar vs CIT. (1953), 24 ITR 553 (Madras)] have also taken the same view that interest on securities becomes income when it is actually received by the assessee. Although Interest Receivable indicates gross interest calculated on the face value of security, the assessee receives net interest (gross interest less tax deducted at source at specified rate).

As interest on securities is a separate head of income, therefore, even if the securities are held as trading assets within the course of any business undertaken by a bank, an insurance company, a leasing company or a stock broker, the interest must be charged under the head “Income from Interest on Securities” and not under Section 28 as income from business or profession or under Section 33 as income from other sources. But, when these securities are sold, any gain or losses from such disposal will be considered as capital gain or loss; hence will not be recorded under the head “Income from Interest on Securities”. Rather, any gain from such event will be recorded under the head “Capital gain” [Central Exchange Bank Ltd. Vs. C.I.T. (1955) I.T.R. 167]

7.3 CONDITIONS FOR TAXATION ON INTEREST ON SECURITIES

According to Section 22 of the ITO, 1984, the following conditions should be met in order to be termed as an income under the head “Income from Interest on Securities”:

- (a) Income must be received as interest,
- (b) The income must be from securities issued by the government; and
- (c) Other than the government securities, income must be received from debentures or securities issued by local authorities and companies.

All the above conditions should be met accordingly; otherwise it will not be treated as interest on securities. The following incomes will not be considered as interest income from securities:

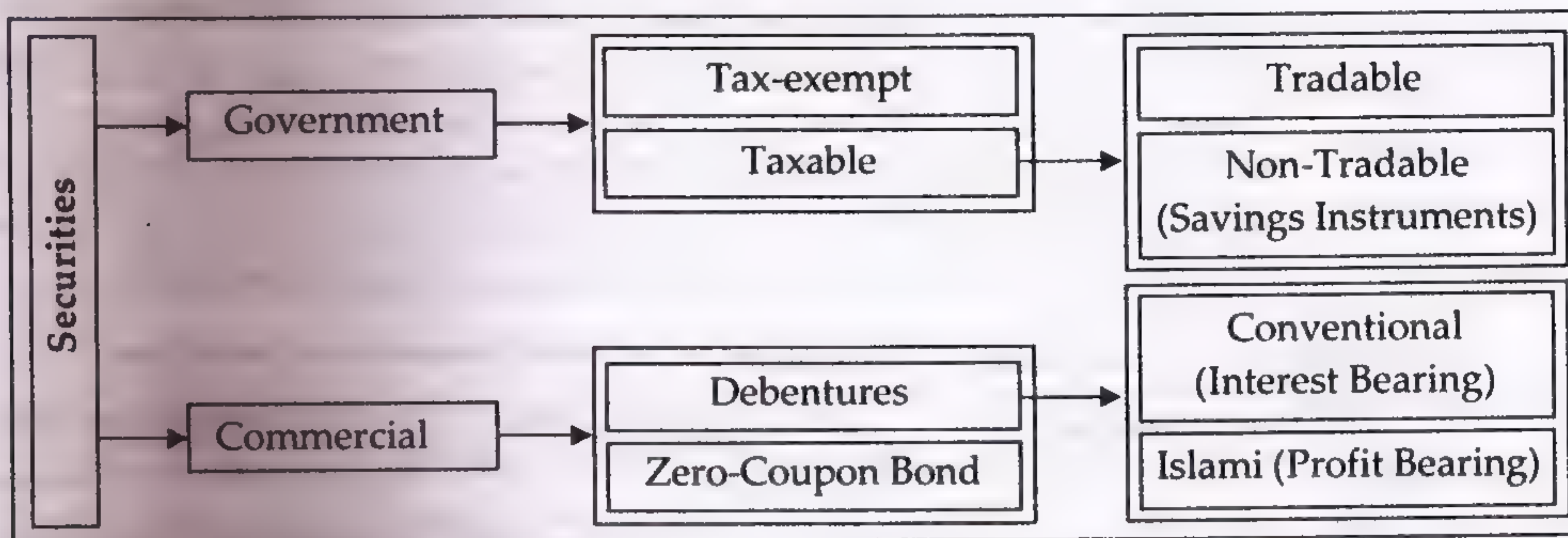
- (a) Interest or profit received from all kind of bank deposits like savings, fixed etc.
- (b) Income from investments other than securities in any government or commercial projects.
- (c) Dividend from equity and preference shares of public and private limited companies.
- (d) Interest on capital and loan from a person or partnership business.
- (e) Interest on securities issued by any individual, Partnership Firm, Association of Persons (AOP), Club etc.
- (f) Gain on sale of securities.
- (g) Interest on Post Office Savings Bank – both ordinary and fixed deposit account.
- (h) Interest receivable from securities issued by any foreign government.
- (i) Interest received from a company on a Book-Debt / Accounts Receivable balance.

7.4 CLASSIFICATION OF SECURITIES

According to Section 22 of the ITO, 1984, securities can be broadly categorized into two categories: government and commercial securities. Government securities can be classified as **tax-exempt** and **taxable** government securities. The securities other than government securities are known as commercial securities. In Bangladesh, two types of commercial securities are issued by local authorities and companies: **debentures** and **zero-coupon bonds**.

Chapter - 7: Income from Interest on Securities

As per Section 51 of the ITO, 1984 5% TDS is applied only on interest income from taxable government securities and commercial securities, whereas no tax is deducted at source on tax-exempt government securities as it is fully exempted from tax. In case of zero coupon bonds, no TDS is deducted if it is received by a person other than bank, insurance or any other financial institution as it is fully exempted from tax for them. 5% TDS will be applicable for income from zero coupon bond received by bank, insurance or any other financial institution. On the basis of the above discussion, securities are broadly classified in the following way:



7.4.1 Government securities: A Government Security is a tradable instrument issued by sovereign Government. It acknowledges the Government's debt obligation. Such securities are short term (usually called treasury bills, with original maturities of less than one year) or long term (usually called Government bonds or dated securities with original maturity of one year or more). These are the securities issued by the Bangladesh government. On the basis of tax chargeability they can be classified into two categories: Tax-exempt government securities and Taxable government securities.

- (a) **Tax – exempt government securities:** These are the securities issued by the government with the condition that interest thereon shall not be liable to tax. [Sixth Schedule, Part A, Para 24]. Income from interest on tax-exempt government securities is not included in computation of taxable income.
- (b) **Taxable government securities:** These are the government securities on which tax is deducted at source at specified rate. So the assessee receives net amount of interest and it is grossed up before including in income. Interests on these securities are fully taxable. Government securities which are traded in the secondary market are known as tradable government securities on which upfront (in advance for the year) 5% TDS is applicable as per Section 51(1). Savings instrument are also issued by the government but are not tradable in the secondary market. 5% TDS is also applicable on interest on savings instruments, as the case may be as per section 52D.

7.4.2 Commercial securities: According to Section 22(b), securities which are approved by the Securities and Exchange Commission (SEC) and issued by or on behalf of a local authority or a company will be considered as commercial securities.

- (a) **Debentures:** These are the commercial securities approved by the BSEC and issued by or on behalf of a local authority or a company. 5% tax is deducted at source from the interest on such commercial securities/debentures. So the interest amount received by the assessee is net amount and hence further

grossing up is required to calculate the gross amount of interest. Interest income from debentures is fully taxable. Debentures can be conventional (interest bearing) on which 5% upfront TDS is applicable) or Islami (profit bearing) on which 5% TDS is applicable.

- (b) **Zero – Coupon Bond:** A Zero-coupon bond (also called a discount bond or deep discount bond) is a bond bought at a price lower than its face value, with the face value repaid at the time of maturity. It does not make periodic interest payments, or so-called "coupons," hence the term zero-coupon bond. Any income derived from approved Zero-coupon bond (approved by Bangladesh Bank and SEC) received by a person other than Bank, Insurance or any Financial Institution is fully exempted from tax [6th Schedule, Part A, Para 40]. 5% tax is deducted at source from the income received from zero coupon bond if it is received by any Bank, Insurance or any Financial Institution.

7.4.3 Distinction between Tax – exempt & Taxable Government Securities:

Points of difference	Tax-exempt Gov. Sec.	Taxable Gov. Sec.
TDS	Not applicable	Applicable @ 5% on interest
Grossing up	Grossing up is not required since interest is received on gross amount.	Grossing up is required since interest is received on net amount after deducting tax.
Exemption	Fully exempted	Fully taxable
Allowable deduction of expenses	Not applicable	Applicable to the extent of expenses as per Section 23.
Impact on average tax rate	As it is not included in total income, there is no impact on average rate of tax.	As it is included in total income, it causes an increase in average rate of tax.

7.5 GROSSING UP OF INTEREST

Interest income taxable under the head "Income from Interest on Securities" must be the gross amount and not the net amount. In the case of securities of the government, or securities approved by the government, debentures issued by any local authority or company unless the government otherwise directs, 5% tax is deducted from such securities at source.

But no tax is deducted at source from interest on tax-exempt government securities & income from zero-coupon bond received by a person other than any Bank, Insurance or any Financial Institution. So, net interest received from taxable government securities and debentures are needed to be grossed up to compute the gross interest. This gross interest will be considered in the computation of taxable income. The formula for grossing up of interest is:

$$\text{Gross Interest} = \text{Net Interest} \times [100 \div (100 - \text{Rate of Tax Deducted at Source})]$$

Explanation – 1: Mr. X has received Tk. 9,500 as interest on taxable government securities/debentures. Since the current rate of tax deducted at source is 5%, the amount of gross interest will be: Tk. $[9,500 \times 100/95] = \text{Tk. } 10,000$.

Explanation 2: But if the value of taxable government securities / debentures is given, it will be possible to compute the gross interest directly. Such as, the value of Mr. X's 10% taxable government security/ debenture is Tk. 200,000. So, the amount of gross interest will be $[200,000 \times 10\%] = \text{Tk. } 20,000$.

Chapter – 7: Income from Interest on Securities

7.5.1 Guidelines for Grossing up of Interest:

Types of Securities	Grossing Up	
	No	Yes
Tax-exempt govt. securities (If interest amount is given) [Interest from tax-exempt government securities Tk. 5,000]	√	
Tax-exempt govt. securities (If value of securities is given) [10% tax-exempt government securities Tk. 50,000]	√	
Taxable govt. securities (If interest amount is given) [Interest on taxable government securities Tk. 2,000]		√
Taxable govt. securities (If value of securities is given) [10% taxable government securities Tk. 30,000]	√	
Com. securities / debentures (If interest amount is given) [Interest on commercial securities / debentures Tk. 4,500]		√
Com. securities / debentures (If value of securities is given) [10% commercial securities / debentures Tk. 40,000]	√	
Income from zero-coupon bond received by any person other than banks, insurance or financial institutions. [Income from zero coupon bond Tk. 3,000]	√	
Income from zero-coupon bond received by any bank, insurance or financial institution. [Income from zero coupon bond Tk. 3,000]		√

Summery Note: Grossing up is only required in case of taxable government securities and debentures. No grossing up is required in case of tax-exempt government securities and zero-coupon bonds (for any person other than bank, insurance or financial institution). The summary of the guidelines are as follows:

- | | |
|---|-------------------------------|
| (a) When interest amount of taxable government securities/debentures is given | : Grossing up is required |
| (b) When value of taxable government securities / debentures is given | : Grossing up is not required |

SELF REVIEW 7 – 1

Mr. Bikash has received interest from the following securities. Calculate his income from securities (evaluate each alternative independently) –

- (a) interest received Tk. 16,500 from tax-exempt government securities
- (b) interest received Tk. 19,000 from taxable government securities
- (c) invested Tk. 2,10,000 last year in a 12% tax-exempt government securities
- (d) invested Tk. 2,00,000 last year in a 12% taxable government securities

7.6 ADMISSIBLE EXPENSES OF INCOME FROM INTEREST ON SECURITIES

In computing the income under the head “Income from Interest on Securities”, the following deductions from respective interests are allowable [Section 23]:

1. **Bank commission / charges for collecting interest:** Bank commission or charges which have been deducted by the bank for collecting interest will be an allowable expense. But no expense is allowable in case of interest on securities which are fully exempted from tax. Again, if bank commission is charged for purchasing securities, it will be considered as a capital expenditure and hence not to be considered as an allowable expense.

2. **Interest on borrowed capital for investment in securities:** Any interest on money borrowed for the purpose of investment in the securities by the assessee will be an allowable expense. But no expense is allowable in case of interest on securities fully exempted from tax.

From the above discussion, it is clear that allowable expenses are deducted only from interest on taxable government securities and commercial securities (debentures). It is not applicable in case of interest on tax-exempt government securities and zero-coupon bond, as they are fully exempted from tax. It should also be noted that no deduction will be allowed in respect of interest payable outside Bangladesh on which tax has not been paid or deducted.

7.7 TAX EXEMPTION ON INTEREST ON SECURITIES

Incomes from interest on securities are exempted up to the following extent as per ITO, 1984:

- (i) Amount of interest on tax-exempt government securities [6th Sched, Part A, Para 24].
- (ii) Amount of interest/income from zero-coupon bond [6th Sched, Part A, Para 40].

Example 1: Calculate taxable income from the given data: Total gross interest on tax-exempt government securities Tk. 5,000; Total gross interest on taxable government securities Tk. 6,000; Total gross interest from debentures Tk. 4,000 and Income from zero-coupon bond Tk. 3,000 received by an individual.

Interest on tax-exempt government securities	Tk. 5,000	
Less: exempted (full)	5,000	-
Interest on taxable government securities		Tk. 6,000
Interest on debentures		4,000
Income from zero-coupon bond	3,000	
Less: exempted (full)	3,000	-
Total		<u>10,000</u>

Example 2: Calculate taxable income from the given data: Interest on tax-exempt government securities Tk. 5,000; Interest on taxable government securities Tk. 4,750; Interest on debentures Tk. 24,700; and Income from zero coupon bond Tk. 5,000 received by an individual.

Interest on tax-exempt government securities	Tk. 5,000	
Less: exempted (full)	5,000	-
Interest on taxable government securities (4,750 × 100/ 100 - 5)		Tk. 5,000
Interest on debentures (24,700 × 100/ 100 - 5)		26,000
Income from zero-coupon bond	5,000	
Less: exempted (full)	5,000	-
Total		<u>31,000</u>

SELF REVIEW 7 - 2

Mr. Ali has received interest from the following securities. Calculate his taxable income.

- (a) Total gross interest on tax-exempt government securities Tk. 5,000.
- (b) Total gross interest on taxable government securities Tk. 4,000.
- (c) Total gross interest on debentures Tk. 26,000.
- (d) Income from zero-coupon bond received by an individual Tk. 2,000

7.8 CUM – INTEREST AND EX – INTEREST TRANSACTIONS

Generally interest on securities is given on a particular day at regular intervals. When interest on securities is received, it is added with the total income for taxation purpose. Sometimes to avoid tax on interest on securities some people sell or transfer their securities including interest to other people just before the due date. This type of interest is known as Cum Interest Transaction. Since securities are capital asset, no tax is given on the disposal value of the securities. According to the ITO, 1984, when securities are sold cum interest, the purchaser or holder of securities will be responsible to pay the tax on whole interest. Here, the seller will not pay any tax for the interest included in the sales price of securities. The reverse is the case for ex-interest transactions. Here the seller and purchaser will be assessed for interest with reference to the period for which the securities are held by the seller and the purchaser (i.e. interest income will be computed and assessed on the basis of proportionate time duration of holding the security by the seller and the buyer). There is wide scope to avoid tax in this way and Section 106 has given sufficient authority to the DCT to handle those cases of tax avoidance.

7.9 BOND WASHING TRANSACTIONS

It is another way where tax avoidance is aimed at. In this case, securities are sold cum interest with an agreement to re-sell or re-transfer the securities with a view to avoiding tax. Sometimes, securities are sold to a person whose income is less than the minimum taxable limit and then he doesn't need to pay any tax on interest on securities since his income is less than the taxable limit. On the other hand since securities are capital asset, no tax will be given on the disposal value of the securities by the seller. In this way both the seller and buyer avoid tax. If this practice is not checked, interest is includible in the total income of the transferee/purchaser, as interest is chargeable in the hands of the person who is legal owner of securities on the due date of payment of interest.

To prevent the avoidance of tax in this manner, Section 106(1) of the ITO, 1984 provides that where a security owner transfers the securities on the eve of due date of interest and reacquires them, the interest received by the transferee/purchaser will be deemed as income of the transferor/seller and, accordingly, it will be included in the total income of the transferor/seller and not the transferee/purchaser. There is wide scope to avoid tax in this way and Section 106 has given sufficient authority to the DCT to handle those cases of tax avoidance.

7.10 DEDUCTION OF TAX AT SOURCE FROM INTEREST ON SECURITIES

According to Section 51(1) of the ITO, 1984, 5% tax is deducted at source from interest or discount receivable on maturity on government securities or other securities approved by government e.g. debentures [Section – 51(1)]. If such securities are based on Islamic principles, 5% TDS will be applicable on profit or discount at the time of payment or credit, whichever is earlier [Section – 51(2)]. No tax is deducted at source from interest on tax-exempt government securities (e.g. treasury bond / bill) and zero coupon bond by any person other than banks, insurance and financial institutions [Section – 51(3)].

7.10.1 Particulars to be furnished on interest on securities by a person other than the Government [Rule 10]

In the case of income chargeable under the head "Interest on securities", where the deduction is not made by or on behalf of the Government, the person responsible for paying the interest shall, at the times of deduction, send to the Deputy Commissioner of Taxes concerned a statement showing the following particulars:

- | | |
|----------------------------------|--|
| (i) Description of securities, | (ii) Period for which interest is drawn, |
| (iii) Numbers of securities, | (iv) Amount of interest, |
| (v) Dates of securities, | (vi) Amount of tax; |
| (vii) Amounts of securities, and | (viii) Date on which tax was deducted. |

7.11 ITEMS INCLUDED IN INVESTMENT ALLOWANCE

As per the rules explained in the Part B of Sixth Schedule, investment in the following securities is considered as a part of Investment Allowance:

- Purchase of debentures or debenture stocks or zero-coupon bond from stock exchanges through IPO or secondary purchase.
- Purchase of government securities including development loans or Bonds as specified by the NBR.
- Purchase of Bangladesh Government Treasury Bill.

The prerequisites of this consideration will be on the basis of Para 27, 10 and 28 of Part B, Sixth Schedule respectively.

7.12 INTEREST ON SAVINGS INSTRUMENTS

In Bangladesh, different savings instruments are also issued through the Department of National Savings (Jatiya Sanchay Adhidaptor) under the savings mobilization Scheme of the Government. Unlike other government securities (Treasury bill, Treasury Bond etc.), these savings instruments are not tradable in the secondary market. The purchaser can encash it at maturity or before maturity. These The basic objectives of these savings instruments are:

- ❖ Motivating people to save money;
- ❖ Collecting scattered small savings through National Saving Schemes;
- ❖ Mitigating national budget deficit by collecting money through saving schemes;
- ❖ Bringing under socio-economic safety net of country's particular sectors of people like: women, senior citizens, Bangladeshis who are working abroad and the physical handicapped by national saving schemes;
- ❖ Playing an important role by reducing foreign aid dependence and money inflation etc.

7.12.1 Savings Instruments existing in Bangladesh

Savings Certificates	Savings Bonds
❖ 5 – Years Bangladesh Sanchaypatra	❖ Wage Earners Development Bond
❖ 3 – Monthly Profit Bearing Sanchaypatra	❖ US Dollar Premium Bond
❖ Family Savings Certificate	❖ US Dollar Investment Bond
❖ Pensioner Sanchaypatra	❖ Euro Premium Bond
	❖ Euro Investment Bond
	❖ Pound Sterling Investment Bond
	❖ Pound Sterling Premium Bond

7.12.2 Under which heads of income interest on savings instruments will be shown?

NBR has issued a circular on September 14, 2015 (File No.: 08.01.0000.030.07.008.2015/131) clarifying that *interest on savings instruments shall be included under the head "Income from Interest on Securities" at the time of computing total income.*

Chapter – 7: Income from Interest on Securities

7.12.3 Fully exempted interest on savings instruments:

- ❖ Any income received by an assessee from Wage earners development bond, US dollar premium bond, US dollar investment bond, Euro premium bond, Euro investment bond, Pound sterling investment bond or Pound sterling premium bond [Sixth Schedule; Part A; Para 24A].
- ❖ Any sum or aggregate of sums received as interest from pensioners' savings certificate where the total accumulated investment at the end of the relevant income year in such certificate does not exceed Tk. five lakh [6th Schedule; Part A; Para 32A].

7.12.4 TDS on Interest on savings instruments:

According to the Section 52D of the ITO, 1984, the following provisions are applicable for TDS on Interest on savings instruments:

- ❖ Notwithstanding anything contained in any other provision of this Ordinance or any other law being in force in respect of exemption from tax on interest of savings instrument purchased by an approved superannuation fund or pension fund or gratuity fund or a recognized provident fund or a workers' profit participation fund, any person responsible for making any payment by way of interest on any savings instruments shall, at the time of such payment, deduct income tax at the rate of five percent (5%) on such interest.
- ❖ No tax shall be deducted under this section where the cumulative investment at the end of the income year in the pensioners' savings certificate does not exceed five lakh taka.
- ❖ No tax shall be deducted from interest or profit arising from *Wage earners development bond, US dollar premium bond, US dollar investment bond, Euro premium bond, Euro investment bond, Pound sterling investment bond, pound sterling investment bond or Pound sterling premium bond*.

7.12.5 Minimum Tax on interest on savings instruments under Section 82C:

Notwithstanding anything contained in any other provisions of this Ordinance, any tax deducted or collected at source under the provision of section 52D shall be the minimum tax on income from interest on savings instruments which tax has been deducted or collected.

Example – 1: During the income year 2016-17, Mr. Tareq received Tk. 400,000 as interest on 5-Year Bangladesh Sanchaypatra on which 5% tax (Tk. 20,000) has been deducted at source under section 52D. He had no other income. In this case his tax liability will be Tk. 20,000 as it is minimum tax u/s 82C.

Example – 2: During the income year 2016-17, Mr. Zia received Tk. 300,000 as interest on 5-Year Bangladesh Sanchaypatra on which 5% tax (Tk. 15,000) has been deducted at source under section 52D. He has also received Tk. 600,000 interest on bank deposits on which 10% tax (Tk. 60,000) has been deducted at source under section 53F. He had no other income or investment allowance. Here, total income and tax liability will be calculated in the following manner:

Income from regular source (Bank interest)	Tk. 600,000
Interest on 5-Year Bangladesh Sanchaypatra (minimum tax u/s 82C)	<u>Tk. 300,000</u>
Total income	Tk. 900,000
Tax Liability: Tax applicable on regular source income (on 1 st Tk. 250,000 nil and on next Tk. 350,000 @ 10%)	Tk. 35,000
TDS on Interest on 5-Year Bangladesh Sanchaypatra	<u>Tk. 15,000</u>
Total tax liability	Tk. 50,000

Total TDS (Tk. 15,000 + Tk. 60,000)	Tk. 75,000
Tax refund claim	(Tk. 25,000)

7.12.6 Admissible expenses applicable on interest on savings instruments:

No admissible expense will be allowed on interest on savings instruments on which minimum tax provision u/s 82C is applicable.

7.13 SUMMARY: INCOME FROM INTEREST ON SECURITIES:

Broad Categories	Sub-categories	Basis of chargeability
Government Securities	Tax –exempt government securities	⇒ No TDS ⇒ No Admissible Expense ⇒ Fully exempted
	Taxable government securities	⇒ 5% TDS ⇒ Grossing up is required if net interest amount is given ⇒ No grossing up is required if investment / value of securities is given ⇒ Admissible expenses are to be deducted ⇒ Fully taxable
Commercial Securities	Debentures	⇒ 5% TDS ⇒ Grossing up is required if net interest amount is given ⇒ No grossing up is required if investment / value of securities is given ⇒ Admissible expenses are to be deducted ⇒ Fully taxable
	Zero Coupon Bond*	⇒ No TDS ⇒ No Admissible Expense ⇒ Fully exempted

*5% TDS is applicable on income from zero coupon bond received by any bank, insurance or financial institution. Hence grossing up will be required in that case and the income will be fully taxable.

7.14 SUMMARY: INTEREST ON SAVINGS INSTRUMENTS

Nature of Instrument: Savings Certificates		
Name	Salient Features	Basis of Chargeability
5 – Years Bangladesh Sanchaypatra (Maturity – 5 years)	❖ Can be purchased by a single Bangladeshi adult; a minor; two adults in their joint names; an adult on behalf of a single minor, two minor jointly, himself/herself and a minor jointly and any lunatic of whom he is the guardian or manager appointed by a court of law. ❖ Purchase Limit: Max 30 lac individual & 60 lac jointly	❖ 5% TDS applicable u/s 52D ❖ Tax amount deducted is the applicable amount of tax on such income / Minimum tax u/s 82C
3 – Monthly Profit Bearing Sanchaypatra (Maturity – 3 years)	❖ Do ❖ Do ❖ Profit can be drawn after every three months	Do
Family Savings Certificate (Maturity – 5 years)	❖ Can be purchased by any adult Bangladeshi female; single Bangladeshi adult; a minor; two adults in their joint	Do

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	names; an adult on behalf of-a single minor; two minor jointly, himself/herself and a minor jointly and any lunatic of whom he is the guardian or manager appointed by a court of law.	
	❖ Purchase Limit: Max 45 lac	
	❖ Profit can be drawn after every three months	
Pensioner Sanchaypatra (Maturity – 5 years)	❖ Can be purchased by any retired Govt., Semi-Govt, Autonomous, Semi-Autonomous, Armed Forces officials and Husband/Wife/Children of such deceased employees. ❖ Purchase Limit: Max 50 lac ❖ Profit can be drawn after every three months	❖ No TDS is applicable where the cumulative investment at the end of the income year does not exceed 5 lac taka. ❖ 5% TDS applicable u/s 52D where the cumulative investment at the end of the income year exceeds 5 lac taka. ❖ Tax amount deducted is the applicable amount of tax on such income/ Minimum tax u/s 82C.

Nature of the Instrument: Savings Bonds

Name	
Wage Earners Development Bond (5 years)	Euro Premium Bond
US Dollar Premium Bond (3 years)	Euro Investment Bond
US Dollar Investment Bond (3 years)	Pound Sterling Investment Bond
	Pound Sterling Premium Bond
Salient Features	Basis of Chargeability
❖ Wage Earners Development Bond can be purchased by a Bangladeshi wage earner serving abroad.	❖ No TDS is applicable u/s 52D
❖ Other bonds can be purchased by Non-Resident Bangladeshi FC Account holder	❖ Fully exempted from tax [6 th Schedule, Part A, Para 24A]
❖ Purchase Limit: Unlimited	

SPECIMEN FORM OF COMPUTING “INCOME FROM INTEREST ON SECURITIES”

Name of the Taxpayer
Assessment year: 2017 – 2018
Income year: 2016 – 2017

Income from Interest on securities (Sec – 22 & 23)	Tk.	Tk.
(a) Interest on tax-exempt government securities	XX	
Less: exempted – full	XX	XX
(b) Interest on taxable government securities		
[[Net interest ÷ (100 - 5)] × 100], if net interest is given	XX	
Less: allowable expenses (bank charge & interest on loan)	XX	XX
(c) Interest on debentures		
[[Net interest ÷ (100 - 5)] × 100], if net interest is given	XX	
Less: allowable expenses (bank charge & interest on loan)	XX	XX
(d) Income from zero-coupon bond	XX	
Less: exempted – full	XX	XX
Total		XX

Illustration 7 – 1:

From the given information compute the income chargeable under the head “Income from Interest on Securities” for Mr. Mahmud for the income year 2016 – 17: Income from interest on tax-exempt government securities Tk. 10,000; 13% tax-exempt government securities to the extent of Tk. 60,000; Income from interest on taxable government securities Tk. 19,000; 10% taxable government securities to the extent of Tk. 45,000; Income from interest on debentures Tk. 23,940; 8% debentures to the extent of Tk. 20,000; and Income from zero-coupon bond Tk. 15,000.

Solution 7 – 1:

Mr. Mahmud Assessment year: 2017 – 2018; Income year: 2016 – 2017 Computation of Total Income		
Income from Interest on securities (Section – 22 & 23)	Tk.	Tk.
(a) Interest on tax-exempt government securities	10,000	
Interest on 13% tax-exempt government securities (60,000 × 13%)	7,800	
	17,800	
Less: exempted – full	17,800	-
(b) Interest on taxable government securities (19,000 × 100/ 100 - 5)	20,000	
Interest on 10% taxable government securities (45,000 × 10%)	4,500	24,500
(c) Interest on debentures (23,940 × 100/ 100 - 5)	25,200	
Interest on 8% debentures (20,000 × 8%)	1,600	26,800
(d) Income from zero-coupon bond	15,000	
Less: exemption – full	15,000	-
Total		51,300

Note: Interest on tax-exempt government securities and income from zero-coupon bond are fully exempted.

Illustration 7 – 2:

From the given information compute the income chargeable under the head Interest on Securities for Mr. Musa for the income year 2016 – 2017: 10% tax-exempt government securities valued Tk. 50,000; Interest received on taxable government securities Tk. 4,750; Tk. 18,050 as interest on debentures and Income from zero coupon bond – Tk. 15,000. The Bank has charged Tk. 100 collecting interest on tax-exempt government securities, Tk. 75 for taxable government securities and Tk. 150 for zero coupon bond. The bank has deducted Tk. 380 as commission for collecting interest on debentures. In addition, debentures were purchased by taking a bank loan of Tk. 100,000 @ 6% interest.

Solution 7 – 2:

Mr. Musa Assessment year: 2017 – 2018; Income year: 2016 – 2017 Computation of Total Income		
Income from Interest on securities (Section – 22 & 23)	Tk.	Tk.
(a) Interest on 10% tax-exempt govt. securities (50,000 × 10%)	5,000	
Less: exempted – full	5,000	-
(b) Interest on taxable govt. securities [(4,750 × 100) ÷ 95]	5,000	
Less: allowable expenses (Bank Charge)	75	4,925
(c) Interest on debentures [(18,050 × 100) ÷ 95]	19,000	

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Less: allowable expenses (Bank charge)	(380)	
Interest on loan (100,000 × 6%)	(6,000)	12,620
(d) Income from zero coupon bond	15,000	
Less: Exempted - full	15,000	
Total		<u>17,545</u>

Notes: No allowable expenses will be deducted from interest on tax-exempt government securities and zero coupon bonds.

Illustration 7 – 3:

From the given information compute income chargeable under the head Interest on Securities for Mr. Hamid for the income year 2016 – 2017:

- (a) Interest on 10% tax-exempt government securities Tk. 10,000;
- (b) Interest on taxable government securities Tk. 9,500;
- (c) Investment on 12% debentures Tk. 120,000; and
- (d) Income from zero coupon bond Tk. 15,000.

The Bank has charged Tk. 200 collecting interest on tax-exempt government securities and Tk. 100 for zero coupon bond. The bank has also deducted 5% commission for collecting interest on taxable government securities and debentures. In addition, bank loans were taken to invest in: for tax-exempt government securities Tk. 100,000 @ 5% interest; for taxable government securities Tk. 50,000 @ 6% interest and for debentures Tk. 120,000 @ 6% interest.

Solution 7 – 3:

Mr. Hamid

Assessment year: 2017 – 2018; Income year: 2016 – 2017

Computation of Total Income

Income from Interest on securities (Section – 22 & 23)	Tk.	Tk.
(a) Interest on 10% tax-exempt govt. securities	10,000	
Less: exempted – full	10,000	
(b) Interest on taxable govt. securities (9,500 × 100 ÷ 95)	10,000	
Less: allowable expenses [Bank charge (9,500 × 5%)]	(475)	
Interest on loan (50,000 × 6%)	(3,000)	6,525
(c) Interest on debentures (120,000 × 12%)	14,400	
Less: allowable expenses [Bank charge (13,680 × 5%)]	(684)	
Interest on loan (120,000 × 6%)	(7,200)	6,516
(d) Income from zero coupon bond	15,000	
Less: Exempted - full	15,000	
Total		<u>13,041</u>

Illustration 7 – 4:

Compute taxable income for Mr. Tomal for the income year 2016 – 2017 considering given data:

Date of purchase	Nature of Security	Purchase Price (Tk.)	Interest rate	Admissible Expense
01.01.2015	Tax-exempt	100,000	10%	Bank Charge Tk. 500 for collecting interest
01.01.2017	Government	50,000	12%	

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01.07.2015	Taxable govern.	200,000	20%	Bank charge 5% of collected interest
01.09.2015	Debenture	100,000	15%	Bank charge Tk. 300 for collecting
30.06.2017		50,000	10%	interest
01.07.2016	1 year Zero Coupon Bond	90,000	0%	Maturity value Tk. 100,000 and Tk. 200 was deducted by bank as commission for purchasing the bond

Solution 7 – 4:

Mr. Tomal

Assessment year: 2017 – 2018; Income year: 2016 – 2017

Computation of Total Income

Income from Interest on securities (Section – 22 & 23)	Tk.	Tk.
(a) Interest on 10% tax-exempt govt. securities	13,000	
Less: exempted – full	13,000	-
(b) Interest on taxable govt. securities (200,000 × 20%)	40,000	
Less: allowable expenses [Bank charge (38,000 × 5%)]	(1,900)	38,100
(c) Interest on debentures (100,000 × 15%)	15,000	
Less: allowable expenses (Bank charge)	(300)	14,700
(d) Income from zero coupon bond (100,000 – 90,000)	10,000	
Less: Exempted - full	10,000	-
Total		<u>52,800</u>

Notes: (1) Interest collected on tax-exempt govt. securities: $\{(100,000 \times 10\%) + (50,000 \times 12\% \times \frac{6}{12})\} = 13,000$ (2) Interest on taxable govt. securities: Gross – Tk. 40,000; Net of 5% TDS – Tk. 38,000; Bank charge was charged on net amount as it has been collected by the bank. (3) No interest was earned on 10% debenture as it has been purchased on last day of income year 2016 – 2017. (4) No allowable expenses will be deducted from interest on tax-exempt government securities and zero coupon bonds.

Illustration 7 – 5:

Determine tax payable income for Mr. Saif from interest on securities for the income year 2016 – 2017. During the year Mr. Saif invested

- (a) Tk. 60,000 in 8% tax-exempt government securities,
- (b) Tk. 50,000 in 10% taxable government securities,
- (c) Tk. 2,00,000 in 15% debentures (purchased on 01.01.17).

He financed Tk. 100,000 by taking 8% loan to purchase debentures. His bank has charged Tk. 2,380 as collection fee of these interests. Moreover, during the income year he has received Tk. 20,000 after expiry of the maturity period of 2-year zero coupon bond. Acquisition price of these bonds were Tk. 18,000. No bank charge was applicable for collecting interest on zero coupon bond.

Solution 7 – 5:

Mr. Saif

Assessment year: 2017 – 2018; Income year: 2016 – 2017

Computation of Total Income

Income from Securities (Section – 22 & 23):	Tk.	Tk.
(a) Interest form tax-exempt government securities (60,000 × 8%)	4,800	
Less: exemption (full)	4,800	-

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(b) Interest from taxable government securities ($50,000 \times 10\%$)	5,000	
Less: Admissible expenses ($2,380/23,800 \times 4,750$)	(475)	4,525
(c) Interest from debentures ($200,000 \times 15\% \times 6/12$)	15,000	
Less: Admissible expenses: Bank charge ($2,380/23,800 \times 14,250$)	(1,425)	
Interest on loan ($100,000 \times 8\% \times 6/12$)	(4,000)	9,575
(d) Interest on zero coupon bond ($20,000 - 18,000$)	2,000	
Less: Exempted - Full	2,000	-
Total		<u>14,100</u>

Notes: 1. Total interest collected by bank:

Tax-exempt government securities	: 4,800
Taxable government securities	: 4,750 ($5,000 - \text{TDS @ } 5\%$)
Debentures	: <u>14,250</u> ($200,000 \times 15\% \times 6/12$) – TDS @ 5%
	<u>23,800</u>

2. The difference between the acquisition price and maturity value of zero coupon bond is considered as interest.

Illustration 7 – 6:

From the given information compute the income chargeable under the head Interest on Securities for Mr. Tanvir for the income year 2016-17: Interest on tax-exempt government securities Tk. 10,000; Value of 15% taxable government securities Tk. 30,000; Tk. 9,500 as interest on 12% debentures and Interest on Zero Coupon Bond Tk. 10,000. The Bank has charged Tk. 3,082 for collecting above interests. In addition to this he has taken a bank loan of Tk. 100,000 @ 6% interest to purchase additional 10% approved company debenture on January 01, 2017.

Solution 7 – 6:

Mr. Tanvir

Assessment year: 2017 – 2018; Income year: 2016 – 2017

Computation of Total Income

Income from Securities (Sec: 22 & 23):	Tk.	Tk.
(a) Interest from tax-exempt government securities	10,000	
Less: exemption (full)	10,000	
(b) Interest from taxable government securities	4,500	
Less: Admissible expenses ($3,082 \div 38,525 \times 4,275$)	(342)	4,158
(c) Interest from 12% Debentures ($9,500 \times 100 \div 95$)	10,000	
Interest from 10% Debentures ($100,000 \times 10\% \times 6/12$)	5,000	
Less: Admissible expenses:	15,000	
Bank charge ($3,082 \div 38,525 \times 14,250^*$)	(1,140)	
Int. on loan ($100,000 \times 6\% \times 6/12$)	(3,000)	10,860
(d) Interest on zero coupon bond	10,000	
Less: Exemption - full	10,000	-
Total		<u>15,018</u>

Notes: 1. Total interest collected by bank:

Tax-exempt government securities	: 10,000
Taxable government securities	: 4,275 ($4,500 - \text{TDS @ } 5\%$)

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12% Debentures:	: 9,500
10% Debentures:	: 4,750 (100,000 × 10%×6/12) – TDS @ 5%
Zero Coupon Bond	: 10,000
	<u>38,525</u>

2. As additional 10% less tax government securities are purchased on January 01, 2017 of the income year 2016-17, interest on debenture and interest on loan has been considered for six months.

3. * Total interest on debentures collected by Bank (Tk, 15,000 less 5% TDS)

Illustration 7 – 7:

Mr. Jalal Talabani, a non-resident Bangladeshi, is a Permanent Resident of Canada. The information regarding his investments in securities during the income year 2016-17 are as follows:

- (a) Tk. 100,000 in 10% Bangladesh tax-exempt Government Bond (Purchased on 01.09.15).
- (b) Tk. 200,000 in 8% Canadian T Bill in Canada (Purchased on 1st July, 2016).
- (c) Interest on 10% taxable government securities Tk. 2,850. The Bank has deducted Tk. 100 as collection fee.
- (d) 14% Beximco Debentures were purchased from DSE at a cost of Tk. 230,000 on 1st January, 2017 (Face value is Tk. 200,000). In this regard, he has sold 13% ACI Debenture at Tk. 150,000 on the same day (The acquisition price was Tk. 130,000, Face value Tk. 125,000). Interest is paid on 30th June each year by the companies on an annual basis. The bank has charged him Tk. 500 as transaction fee.
- (e) 12% debentures of ABC Ltd. of the face value of Tk. 500,000 (interest is payable on 31st December on an annual basis) were sold ex-interest on December 01, 2016 and Tk. 700,000 15% debenture of XYZ Ltd was purchased ex-interest, borrowing the additional sum from NCC Bank @ 10% interest. The Bank has charged him Tk. 1,000 as commission for the settlement of the purchase and sales and Tk. 1,500 for collecting interests. The due dates of payment of interest on 15% XYZ Debentures are September 30 and March 31.
- (f) The DCT identified that he has transferred 10% debenture of Tk. 100,000 to his friend on 15th June, 2017 (interest is paid on 30th June on an annual basis) and bought it back on 3rd July, 2017 at Tk. 105,000. The DCT has identified the matter as Bond Washing.
- (g) On 31st March, 2017 3 years Zero Coupon Bond of Tk. 50,000 was matured and he has received the amount as maturity value, whether the acquisition price of the same was Tk. 35,000. The collection fee of Tk. 500 was charged in this regard by his bank.

Determine tax payable income for Mr. Jalal Talabani from interest on securities for the income year 2016 – 2017.

Solution 7 – 7:

Mr. Jalal Talabani
Assessment year: 2017 – 2018; Income year: 2016 – 2017
Computation of Total Income

Income from Securities (Sec: 22 & 23):	Tk.	Tk.
(a) Interest from tax-exempt government securities	10,000	
Less: exemption (full)	10,000	-
(b) Interest from taxable government securities (2,850 × 100 ÷ 95)	3,000	
Less: Admissible expenses (collection fee)	100	2,900

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(c) Interest from debentures	80,500	
Less: Admissible expenses	10,979	69,521
(d) Interest from 10% debentures (bond-washing transaction)		10,000
(e) Interest on zero coupon bond	15,000	
Less: Exemption - full	15,000	-
Total		<u>82,421</u>

Workings and Note:

- 10% Bangladesh Tax Free Government Bond is a tax-free government security. Interest is considered for the whole year as it was on hand from the first day of the I/Y 2016-17.
- As he is a non-resident, interest on Canadian T Bill will not come under the scope of his total income, as it is income earned in outside Bangladesh. In case of resident, the interest would have to be considered under the head "Foreign income" instead of "Income from Interest on Securities", as it is a security issued by foreign authority.
- Income from debentures is calculated as follows:
 - Interest on securities is paid always on face value. So, Interest on 14% Beximco Debenture is $(200,000 \times 14\%) = \text{Tk. } 28,000$. As the final holder, he will get the whole interest. In the similar manner, as he has sold the 13% ACI interest in the secondary market, he is no more eligible to receive any interest on it as he is not the final holder. This is an example of cum-interest. Transaction fee for purchase and sell of securities is not an admissible expense.
 - 12% debentures of ABC Ltd. bearing the face value of Tk. 500,000 were sold before the due date of interest. So, the final holder is entitled to get the interest on such debentures. In this regard, no income by way of interest arises in the hand of Mr. Jalal Talabani. However, the sale being ex-interest, the total sale price is Tk. 500,000 plus interest accrued for 11 months (1st January, 16 to 30th November, 16) i.e. $\text{Tk. } 55,000$ $(500,000 \times 12\% \times 11/12) = \text{Tk. } 55,000$. The surplus received Tk.55,000 $(555,000 - 500,000)$ would be deemed to be income chargeable under the head "Capital gains".
 - The amount of additional sum borrowed to purchase 15% XYZ Debentures at face value ex-interest is calculated as follows:

Particulars	Tk.
FV of 15% XYZ Debentures	700,000
Add: Payment for accrued interest for the period October 01, 16 to November 30, 16 $[\text{Tk. } 700,000 \times 15\% \times 2/12]$	17,500
Total cost	717,500
Less: Amount received from sale of ABC Debenture	555,000
Borrowings from Bank (On December 01, 2016)	<u>162,500</u>

- After the acquisition, interest on 15% XYZ debentures received in the I/Y 2016-17 is only on 31st March, 2017 for six months, as he receives the interest on a semi-annual basis. So, the interest amount received on 15% debentures is $(700,000 \times 15\% \times 1/2) = \text{Tk. } 52,500$. The next interest will be received on September 30, 2017 which doesn't fall in I/Y 2016-17.

- So, the Total interest received from debentures in the I/Y 2016-17 will be:

Interest on 14% Beximco Debenture	= Tk. 28,000
Interest on 15% XYZ Debenture	= <u>Tk. 52,500</u>
	<u>Tk. 80,500</u>
Admissible expenses:	
Bank collection fee for interests	= Tk. 1,500
Interest on loan $(162,500 \times 10\% \times 7/12)$	
(From December 01, 16 to June 30, 17)	= <u>Tk. 9,479</u>
	<u>Tk. 10,979</u>

4. As the sale of 10% debentures is considered as bond washing transaction by the DCT, the interest amount will be considered as the income of Mr. Jalal Talabani.

Illustration 7 – 8:

During the income year 2016-17, Mr. Tareq had the following amounts from his investments in savings instruments:

- ❖ Tk. 80,000 as interest on 5-Year Bangladesh Sanchaypatra
- ❖ Tk. 60,000 as 3 monthly profit based Sanchaypatra (Bought on January 01, 2017)
- ❖ Tk. 100,000 as interest on Pensioner Sanchaypatra (Cumulative investment amount reached to Tk 800,000 at the end of the income year 2016-2017).
- ❖ Tk. 50,000 from Wage Earner's Development Bond

Requirement:

1. What will be total taxable income from interest on savings instruments?
2. What will be his amount of tax liability on such income, if he has no other income?
3. What will be his amount of tax liability if he has income from house property Tk. 600,000, in addition to the above incomes from savings instruments?
4. What will be his total income and net amount of tax liability on such income, if his cumulative investment in Pensioner Sanchaypatra reached to Tk. 400,000 at the end of the income year 2016-2017?

Solution 7 – 8:

1.

Particulars	Tk.	Tk.
Interest on 5-Year Bangladesh Sanchaypatra		80,000
Interest on 3 monthly profit based Sanchaypatra		60,000
Interest on Pensioner Sanchaypatra		100,000
Interest on Wage Earner's Dev. Bond	50,000	
Less: Exempted - Full	<u>50,000</u>	<u>-</u>
Total		<u><u>240,000</u></u>

Note: As cumulative investment in Pensioner Sanchaypatra reached to Tk. 800,000 at the end of the income year 2016-2017; 5% TDS is applicable on it.

2. According to section 52D, 5% TDS is applicable on income from above savings instruments which is Tk. 12,000 (5% of Tk. 240,000). Although his total income is less than the minimum non assessable limit of Tk. 250,000; the tax amount already deducted (i.e. Tk. 12,000) will be his applicable / minimum tax liability u/s 82C.

3.	Income from regular source (house property income)	- Tk. 600,000
	Income on which section 82C is applicable (Interest on savings instruments)	- <u>Tk. 240,000</u>
	Total Income	- <u><u>Tk. 840,000</u></u>
	Tax Liability:	
	Income Tax applicable on regular source of income @ regular rate	- Tk. 35,000
	TDS on interest on savings instruments (5% of Tk. 240,000)	- <u>Tk. 12,000</u>
	Total tax liability	- Tk. 47,000
	Less: TDS	- <u>Tk. 12,000</u>
	Tax liability to be paid with return	- <u><u>Tk. 35,000</u></u>

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4.

Particulars	Tk.	Tk.
Interest on 5-Year Bangladesh Sanchaypatra		80,000
Interest on 3 monthly profit based Sanchaypatra		60,000
Interest on Pensioner Sanchaypatra	100,000	
Less: Exempted - Full	<u>100,000</u>	-
Interest on Wage Earner's Dev. Bond	50,000	
Less: Exempted - Full	<u>50,000</u>	-
Total		<u>140,000</u>

According to section 52D, 5% TDS is applicable on income from above savings instruments which is Tk. 7,000 (5% of Tk. 140,000). Although his total income is less than the minimum non assessable limit of Tk. 250,000; the tax amount already deducted (i.e. Tk. 7,000) will be his applicable / minimum tax liability u/s 82C.

Illustration 7 – 9:

Consider the following income of Mr. Amit Agarowal for the year ended on June 30, 2017:

SL	Category	Amount (Tk)
a)	Interest on Government Treasury Bill	15,000
b)	Interest on US Dollar Premium Bond	25,000
c)	Investment in 10% Taxable Government Securities	200,000
d)	Interest on 5 Year's Savings Certificate	28,500
e)	Investment in 12% Debenture	400,000
f)	Income from 1 year Zero Coupon Bond	12,000

In additional to 'Income from Interest on Securities' as listed in the above table, Mr. Agarowal also has taxable income from 'Salary' amounting to Tk. 750,000 during the year. In line with the Part B Sixth Schedule, his qualifying amount for allowable investment amounts to Tk. 150,000. Based on the information provided, compute taxable income and tax liability of Mr. Agarowal for 2017-18 assessment year.

Solution 7 – 9:

	Heads of Income	Tk.	Tk.	Tk.
a)	Income from Salary (U/S 21)			750,000
b)	Income from Interest on Securities (U/S 22)			
i)	Interest on Government Treasury Bill	15,000		
	Less: Exempted	<u>15,000</u>	0	
ii)	Interest on US Dollar Premium Bond	25,000		
	Less: Exempted	<u>25,000</u>	0	
iii)	Interest on 10% Taxable Government Securities		20,000	
iv)	Interest on 5 Year's Savings Certificate [28,500 ÷ 0.95]		30,000	
v)	Interest on 12% Debenture		48,000	
vi)	Income from Zero Coupon Bond	12,000		
	Less: Exempted	<u>12,000</u>	0	
				98,000
	Total Taxable Income			<u>848,000</u>

Investment Allowance:

Eligible Amount for tax rebate

[A]	Total Allowable Investment	Tk. 150,000
[B]	25% of the total income [excluding any income for which a tax exemption or a reduced rate is applicable under sub-section (4) of section 44 or any income from any source or sources mentioned in clause (a) of sub-section (2) of section 82C.] 25% of Tk. 818,000 (excluding Tk. 30,000)	Tk. 204,500
[C]	1.5 Crore	
Whichever is less		Tk. 150,000

Tax Liability Calculation

		Rate	Amount
On first	Tk. 250,000	0%	0
On next	Tk. 400,000	10%	40,000
On next	Tk. 168,000	15%	25,200
On income under 82C	Tk. 30,000	5%	1,500
Total	Tk. 848,000		66,700
Less: Tax rebate on investment (150,000 × 15%)			22,500
Net tax liability			44,200

KEY POINTS

1. Interest receivable by the assessee on any security of the government or any security approved by government or from any debenture is taxable.
2. According to the ITO, 1984 the chargeability of tax is possible even if interest on securities is on due or receivable basis.
3. According to Section 22 of the ITO, 1984 income must be received as interest to be recorded under this head.
4. In computing the income under the head "Interest on Securities" deduction of bank collection fees and interest on borrowed capital are admissible.
5. Interests on Tax exempt government securities and income from zero coupon bond received by any person other than banks, insurance and financial institutions are fully exempted from tax.
6. Interest on savings instruments is recorded under the head "Interest on Securities".
7. Interest on commercial securities (debentures) is fully taxable.
8. Amount of interest income need to be grossed up when interest received is net interest from taxable government securities and debentures.
9. By cum interest transaction a holder of security can avoid tax and by bond washing transaction both the seller and buyer can avoid tax. But DCT has given sufficient authority to handle those cases of tax avoidance.
10. In Bangladesh, the rate of tax deducted at source from interest on securities is 5%.

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Multiple choice questions:

1. Income of an assessee shall be classified under the head 'Interest on Securities' according to –
 - (a) section 19
 - (b) section 20
 - (c) section 21
 - (d) section 22
2. Total exemption from taxable government securities and debentures amounted to –
 - (a) Tk. 25,000
 - (b) Nil
 - (c) Tk. 15,000
 - (d) Tk. 5,000
3. Which of the following shall not be considered as interest on security –
 - (a) income from securities issued by the government
 - (b) income from securities issued by local authority
 - (c) income from securities issued by a company
 - (d) income from bank deposits
4. From the following cases which interest need to be grossed up –
 - (a) Interest received Tk. 10,000 from tax-exempt government securities
 - (b) Interest received Tk. 10,000 from taxable government securities
 - (c) Investment of Tk. 1,00,000 in 10% tax-exempt government securities
 - (d) Investment of Tk. 1,00,000 in 10% taxable government securities
5. Which of the following securities is eligible for tax exemption benefit –
 - (a) Tax-exempt government security
 - (b) Taxable government security
 - (c) Debenture
 - (d) None
6. Which of the following statements is false –
 - (a) In case of cum interest transaction seller will pay tax
 - (b) In case of cum interest transaction buyer will pay tax
 - (c) In case of bond washing transaction neither buyer nor the seller will pay tax
 - (d) None of the above
7. Rate of TDS on interest on securities is –
 - (a) 5%
 - (b) 10%
 - (c) 15%
 - (d) 20%
8. Bangladesh Treasury Bond is an example of –
 - (a) Tax-exempt government security
 - (b) Taxable government security
 - (c) Debenture
 - (d) Zero Coupon Bond
9. Amount of tax exemption for interest on tax-exempt government securities is –
 - (a) Full
 - (b) Tk. 5,000
 - (c) Tk. 20,000
 - (d) Nothing

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10. Amount of tax exemption for interest on debenture –

- (a) Full
- (b) Tk. 5,000
- (c) Tk. 20,000
- (d) Nil

Identify the following statements as True (T) or False (F):

1. Dividend from equity share lies under the head income from interest on securities.
2. Taxable government securities get tax exemption benefit.
3. Cum interest transaction help the seller of security to avoid tax.
4. TDS is applicable @ 10% on interest on taxable government securities.
5. Investment in debenture is not subject to investment tax rebate.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 7 – 1: What is income from interest on securities? What is the basic of taxation under the head income from interest on securities?
- Question 7 – 2: What are the conditions of taxation under interest on securities?
- Question 7 – 3: Classify different types of securities and briefly explain each class.
- Question 7 – 4: What is grossing up of interest? In which type of security the concept of grossing up is applicable? Explain.
- Question 7 – 5: What are the admissible expenses under the head interest on security?
- Question 7 – 6: Explain with example the tax exemption benefits applicable for different types of security.
- Question 7 – 7: “There is wide scope to avoid tax by cum interest transaction and bond washing transaction” – explain.
- Question 7 – 8: Write short note on:
- (a) Grossing up of interest
 - (b) Bond washing transaction
 - (c) Tax exempted income under the head interest on securities
 - (d) TDS applicable for the head interest on securities
 - (e) TDS on Interest on Pensioner Savings Certificates

Problem 7 – 1:

Followings are the income from different sources of securities income for Mr. Zia for the income year 2016 – 2017: Interest on tax-exempt govt. securities Tk. 10,000; Interest on taxable govt. securities Tk. 4,500; Interest on 10% debentures Tk. 9,000 and Interest on zero coupon bond Tk. 15,000. The Bank has charged Tk. 1,200 for collecting the above interests. In addition to this he has taken a bank loan of Tk. 100,000 @ 6% interest to purchase the 10% debentures.

Required: Compute the income chargeable under the head Interest on Securities for Mr. Zia for the income year 2016 – 2017.

Problem 7 – 2:

Mr. Jalil invested Tk. 50,000 in 10% tax-exempt government securities, Tk. 50,000 in 10% taxable government securities and Tk. 140,000 in 10% debentures. He financed Tk. 100,000 by taking 8%

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loan to purchase government securities. Bank charge Tk. 1,000 as collection fee of these interests. Determine tax payable income for Mr. Jalil for the income year 2016 – 2017.

Problem 7 – 3:

From the following information compute the income chargeable under the head Interest on Securities for Ms. Veronica for the income year 2016 – 2017: Income from interest on tax-exempt government securities Tk. 9,000; 10% tax-exempt government securities to the extent of Tk. 50,000; Income from interest on taxable government securities Tk. 1,800; 10% taxable government securities to the extent of Tk. 25,000; Income from interest on 12% debentures Tk. 18,000; 15% debentures to the extent of Tk. 20,000 and Interest from zero coupon bond Tk. 8,000.

Problem 7 – 4:

From the following information compute the income chargeable under the head Interest on Securities for Mr. Jewel for the income year 2016-17: Value of 15% tax-exempt govt. securities Tk. 30,000; Interest on tax-exempt govt. securities Tk. 10,000; Interest on taxable govt. securities Tk. 9,000; Value of 15% debenture Tk. 60,000; Interest on 10% debentures Tk. 9,000 and income from zero coupon bond – Tk. 2,000. The Bank has charged Tk 1,500 for collecting the above interests. In addition to this he has taken a bank loan of Tk. 100,000 @ 6% interest to purchase the tax-exempt government securities.

Problem 7 – 5:

From the given information compute the income chargeable under the head Interest on Securities for Mr. Taleb for the income year 2016-17: Interest on tax-exempt government securities Tk. 15,000; Value of 15% taxable government securities Tk. 30,000; Tk. 9,500 as interest on 12% debentures; Value of 15% debentures Tk. 80,000 and Interest on Zero Coupon Bond Tk. 10,000. The Bank has charged Tk. 3,500 for collecting above interests. In addition to this he has taken a bank loan of Tk. 100,000 @ 6% interest to purchase additional 10% approved company debenture on October 01, 2016.

Problem 7 – 6:

During the income year 2016-17, Mrs. Nilufar had the following amounts from his investments in savings instruments: Tk. 300,000 as interest on 5-Year Bangladesh Sanchaypatra; Tk. 160,000 as 3 monthly profit based Sanchaypatra (Bought on October 01, 2016); Tk. 100,000 as interest on Pensioner Sanchaypatra (Cumulative investment amount reached to Tk 800,000 at the end of the income year 2016-2017); \$5,000 from US Dollar Bond (\$1 = Tk. 77 as on June 30, 2017)

Requirement:

1. What will be total taxable income from interest on savings instruments?
2. What will be his amount of tax liability on such income, if he has no other income?
3. What will be his amount of tax liability if he has income from house property Tk. 600,000, income from salary Tk. 12,00,000 (on which Tk. 120,000 was deducted at source), interest on other sources (bank deposit interest) Tk. 600,000 (on which Tk. 60,000 was deducted at source) in addition to the above incomes from savings instruments?
4. What will be his total income and net amount of tax liability on such income, if his cumulative investment in Pensioner Sanchaypatra reached to Tk. 400,000 at the end of the income year 2016-2017?

Answers:

Multiple choice questions		True/False
1. d	6. a	1. F
2. b	7. a	2. F
3. d	8. a	3. T
4. b	9. a	4. F
5. a	10. d	5. F

Self review 7 – 1:

	(a)	(b)	(c)	(d)
Interest received	Tk. 16,500			
[19,000 X 100/95]		Tk. 20,000		
[2,10,000 X 12%]			Tk. 25,200	
[200,000 X 12%]				Tk. 24,000
Less: exemption	16,500	-	25,200	-
		<u>20,000</u>	<u>=</u>	<u>24,000</u>

Self review 7 – 2:

Income from Interest on Securities		Tk.	Tk.
(a)	Interest on tax-exempt government securities	5,000	
	Less: Fully exempted	<u>5,000</u>	
			-
(b)	Interest on taxable government securities		4,000
(c)	Interest on debentures		26,000
(d)	Income from zero-coupon bond	2,000	
	Less: Fully exempted	<u>2,000</u>	-
	Total		<u>30,000</u>

CHAPTER – 8

INCOME FROM HOUSE PROPERTY

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After studying Chapter 8, you shall be able to understand:

- ⊕ the concept of income from house property
 - ⊕ conditions need to be satisfied to consider income from house property
 - ⊕ critical evaluation of important terminologies relating to the income from house property
 - ⊕ non assessable income under this head
 - ⊕ the concept of annual value
 - ⊕ rental status of house property
 - ⊕ admissible expenses against income from house property
 - ⊕ TDS from house property
-

8.1 INTRODUCTION

“Income from House Property” is the third head of income among the seven heads mentioned in Section 20 of the ITO, 1984. According to Section 24 and 25 of the ITO, 1984, annual value of property consisting of any building or lands appurtenant thereto, of which the assessee is the owner, is chargeable to tax under this head of income after claiming deduction under Sec. 25. The said property will not include the portions of property that the assessee may occupy for purposes of any business or profession carried on by him, the profits of which are chargeable to tax.

8.2 SCOPE OF INCOME FROM HOUSE PROPERTY

According to various provisions of the Income Tax Ordinance, 1984, the following incomes are to be considered under the head “Income from House Property”:

1. Annual value of any property, whether used for commercial or residential purposes, consisting of any building, furniture, fixture, fittings etc. or lands appurtenant thereto, of which the assessee is the owner. However, such portions of the property as the assessee-owner may occupy for the purpose of his business or profession, the profits of which are chargeable to annual value of such property is not assessable under this head. [Section – 24(1)].
2. If the house property is owned by two or more persons and if their respective shares are definite and ascertainable, then only proportionate income from such a property will be considered as income from house property of the assessee. Here such persons shall not constitute and deemed to be an association of persons [Sec 24(2)].
3. Where an assessee-owner of a house property receives any advance from the tenant which is not adjustable against the rent payable, the amount so received shall be deemed to be the income of the assessee for the income year in which it is received and be classifiable under the head “Income from House Property”. Provided that at the option of the assessee such amount may be allocated, for the assessment purpose in equal proportion to the year of receipt and four years next following. Moreover, if such amount or part thereof is refunded by the assessee in a subsequent income year, the refunded amount shall be deducted in computing the income of the assessee in respect of that income year [u/s- 19(22)].

4. Where an assessee, in the course of any proceedings under this Ordinance, is found to have any sum or part thereof allowed or deducted but not spent in accordance with the provision of clause (h) of sub-section (1) of section 25 of this Ordinance (allowable repair and maintenance expense), such unspent sum or part thereof shall be deemed to be the income of such assessee for that income year classifiable under the head “Income from house property” [u/s- 19(30)].

8.3 CONDITIONS TO BE SATISFIED WHILE COMPUTING INCOME UNDER THE HEAD “INCOME FROM HOUSE PROPERTY”

From the analysis of the Sections 24(1), 24(2), 19(22) and 19(30), it is clear that the following conditions are to be fulfilled for considering any income under the head “Income from House Property”:

1. Assessee is the legal owner of the whole house property or the owner of a part of the property or beneficiary of the property.
2. Income should be generated from let out part and not from any part used by the owner for personal purpose or for the purpose of his business or profession.
3. Property must consist of any buildings or land/lands appurtenant thereto.
4. The house may let out for residential or commercial purposes.
5. Income is the result of gross rental received less amount of admissible expenses.
6. In case of joint ownership, then only proportionate income from such a property will be considered as income from house property of the assessee.
7. Any advance against rent is also considered as the income from house property subject to some conditions in assessment procedure.
8. The unspent amount of allowable repair and maintenance expense has to be shown as income.

Illustration: (a) X owns a building. It is let out on rent. Income of the property is taxable under the head “Income from house property”, as the above noted conditions are satisfied. (b) Y owns a building. It is used by him for carrying on a business or he uses the building as his office/factory/godown. In this case, no income is taxable under the head “Income from house property”, as condition (2) is not satisfied. (c) X owns a house property. He lets it out to Y for 3 years (rent being Tk. 10,000 per month). Y sublets it to Z on monthly rent of Tk. 40,000. Rental income of X is taxable under the head “Income from house property”. Since Y is not the owner of the house, his income is not taxable under the head “Income from house property”, but is taxable under the head “Income from other sources”.

8.4 A DIAGNOSTIC VIEW OF THE TERM “BUILDINGS OR LANDS APPURTENANT THERETO” OF INCOME FROM HOUSE PROPERTY

The property which consists of any building is subject matter of consideration of Section 24 of the ITO, 1984. The word “Building” has a wider connotation than what is carried on by a “House Property”. The word “Building” is not defined in the ITO, 1984 and must therefore be construed in its ordinary sense. Generally, the term “Building” includes an edifice or structure or a framework, built in relation to land essentially existing in physical form, mean to last more or less permanently, for user towards residence for the owner or for others or for storing items or for carrying on of commercial activities or for any other purpose excluding ship, vessel or the like. The appurtenant lands in respect of a residential building may be in the form of a compound and playground, courtyard and backyard, kitchen-garden, cattle-shed and motor garage, etc. forming part of the building. In respect of a non-residential building, the appurtenant lands may be in the

form of car-parking space, connecting roads between different departments of the factory area, drying grounds and playgrounds, etc. forming part of the building. Lands appurtenant to buildings come under house property and other lands, that is, not appurtenant to buildings and not occupied and enjoyed with them is to be considered under "Income from Other Sources".

8.5 A DIAGNOSTIC VIEW OF THE TERM "OWNERSHIP" IN RESPECT OF INCOME FROM HOUSE PROPERTY

The charge under this head is on the bona fide annual value of the property of which the assessee is the owner or deemed owner. If the assessee is not owner of the house property, he is not assessable under this head. The term "owner" is one of wide application in various connections and must be interpreted in its broadest possible meaning. The Income Tax Ordinance, 1984 does not pin down the assessing authorities to tax only the registered owner. The charge of tax under the head "Income from House Property" is on the owner, be it a legal owner or deemed owner or beneficial owner [P.J. Swaminathan vs. CIT (1984) 145 ITR 198 (Mad.)]. The test of ownership is required to be satisfied in the income year and not in the assessment year. For the purpose of tax, the owner must be that person who can exercise the rights of the owner, not on behalf of the owner but in his own right [R.B. Jodhamal Kuthiala vs. CIT (1971) 82 ITR 570 (SC.)]. In this regard, the following legal opinions may also be used as reference or guideline:

1. **Legatee is the owner of Property of Deceased, not the Executor:** Where a will gives life interest in house property to specific legatee, such legatee will be the owner of the property. Income of property will be assessable in the hands of legatee and not in the hands of executor [Estate of Ambalal Sarabhai vs. CIT (2000) 245 ITR 445 (Guj.)].
2. **Ownership in case of Insolvency may vest with the Official Custodian / Receiver:** In case of insolvency Evacuee is not the owner. It is the custodian who will be assessed for the property [R.B. Jodhamal Kuthiala vs. CIT (1971) 82 ITR 570 (SC.)].
3. **Agreement to Purchase does not Confer Ownership unless Assessee can be proved as owner for all intent and purposes:** An agreement to buy may confer a claim on certain rights under the Transfer of Property Act, but still he does not make the purchaser the owner until the sale deed is registered in his favor [Ramkumar Mills P. Ltd. Vs, CIT (1989) 180 ITR 464 (Kar.)]. The vendor continues to be owner of the property and is liable to be assessed under the head "Income from House Property" [CIT vs. Sultan Brothers Pvt. Ltd. (1983) 142 ITR 249 (Bom.)].
4. **Property owned by Firm:** Where the house property is owned by a partnership firm, the partners cannot be assessed as co-owners. The firm is assessable as owner [Sarvamangala Properties Ltd. vs. CIT (1973) 90 ITR 267 (cal.)].
5. **Benami Properties – Beneficial Owner to be Assessed:** Where the property is purchased by X in the name of his son, Y, the assessment of income from such property on X is valid as he is found to be the real purchaser of these property. Burden of proof to show that the assessee is that real owner in cases like this is heavily on the Income Tax Authority [M/s ER Chowdhury vs. CIT 37 DLR 210; CIT vs. Ajit Kumar roy (2001) 252 ITR 468 (Cal.)].
6. **Disputed Ownership – Assessment cannot be held up:** The assessment proceeding cannot be held up on account of dispute relating to title of the property either in or outside the Court [Keshardeo Chamria vs. CIT (1937) 5 ITR 246 (cal.)]. The decision as to who is the owner rests with the Assessing officer. The person who is in receipt of income is assessed to tax. If, however, the decision of the Court goes against the

interim decision of the tax authorities, the back years assessment are to be rectified according to the verdict of the Court.

7. **Trustees are the owner in case of property held under a Trust:** Where the property legally vests in the trustees, they are liable to be assessed in respect of such property [Vakil vs. CIT ITR 298, 302].
8. **Where the property is mortgaged:** The mortgager will pay tax on income from house property; hence the ownership has not transferred.
9. **Where the property is leased:** Generally in case of long-term lease agreement, the lessee is liable to pay tax. But in case of short-term lease agreement, the lessor will be assessed and the income will be recorded under the head “Income from Other Sources”.

8.6 NON – ASSESSABLE INCOMES UNDER THE HEAD “INCOME FROM HOUSE PROPERTY”

According to the provisions of the Section 2(1), 24, 25, Para 1 & 38 of the Sixth Schedule, the following incomes from house property are non-assessable:

1. Annual value of the house used by the owner for his personal purpose i.e. for his own residence or for the purpose of his business or profession [Section 24(1)].
2. Where, the whole or part of the property is let out, a sum equal to such portion of the annual value appropriate to the vacant part as is proportionate to the period of the vacancy of such part [Section 25(1)(j & k)]
3. Any income derived from house property held under trust or other legal obligation wholly used for religious or charitable purposes [Sixth Schedule, Part A, Para 1(1)]
4. Any income derived from any building, not less than five storied, having at least ten flats, constructed at any time between July 01, 2009 to June 30, 2014 (both days inclusive), for ten years from the date of completion of construction of the building, if it is situated in any area of Bangladesh other than the areas of City Corporation, Cantonment Board, Tongi Upazila, Narayanganj Paurashaba, Gazipur Pourashava and any Pourashaba under Dhaka district [Sixth Schedule, Part A, Para 38]
5. Any income derived from any building which is situated in a land used for agricultural purpose, e.g. used by the cultivator/farmer as the dwelling or store house or other-out house by reason of his connection with such land [Section 2(1)(b)]

8.7 ANNUAL VALUE

Annual value of the house refers to the gross rental income from the house property in a particular income year. For assessment purpose, annual value is the higher of actual rental value and the municipal value of the house property. According to Section 2(3)(a) of the ITO, 1984 ‘annual value’ shall be deemed to be in relation to any property let out –

- (i) the sum for which property might reasonably be expected to let from year to year and any amount received by letting out furniture, fixture, fittings etc.; or
- (ii) where the annual rent in respect thereof is in excess of the sum referred to in paragraph (i), the amount of the annual rent.

Suppose, Mr. Zia is the owner of a house which he let out at a monthly rent of Tk. 9,500. Municipal value of the house is Tk. 120,000. Here annual value of the house is –			
Actual Rental Value (9,500 × 12)	Tk. 114,000	Higher one →	Annual Value Tk. 120,000
Municipal Value	Tk. 120,000		

Chapter – 8: Income from House Property

So 'Actual Rental Value' and 'Municipal Value' are the most significant factors in computation of annual value. Municipal value is the value specified by the municipal authority and the actual rental value is the amount received from the tenant(s) as rent of the house property. But actual rental value may not always be equal to the actual rental amount received by the assessee from the house property rather it will depend on the following two situations:

SELF REVIEW 8 – 1

Mr. Akmal is the owner of a house which he let out at a monthly rent of Tk. 10,000. Calculate the annual value when municipal value of the house is –

- (a) Tk. 135,000
- (b) Tk. 110,000.

8.7.1 Situation – 1:

If the tenant bears any owner's expenses: If the tenant bears any expense which is supposed to be borne by the owner like repair and maintenance of the house, actual rental value will be increased by the same amount because the owner indirectly receives such extra benefit from the tenants.

Suppose, Mr. Zia is the owner of a house which he let out at a monthly rent of Tk. 9,500. Municipal value of the house is Tk. 120,000. As per the agreement, the tenant will bear all city corporation taxes relating to the house property, which amounted to Tk. 8,000 for the year. Here annual value of the house is –

Actual Rental Value: Rent received ($9,500 \times 12$)	Tk. 114,000	Higher one ↓	Annual Value Tk. 122,000
Add. Owner's expense paid by tenant	8,000		
Actual Rental Value	Tk. 122,000		
Municipal Value	Tk. 120,000		

8.7.2 Situation – 2:

If the owner bears any tenant's expenses: If the owner of the house bears any expense which is supposed to be borne by the tenant like water and gas bill, actual rental value will be decreased by the same amount because the owner indirectly provides such extra benefit to the tenant(s) out of the amount received from them as rent.

Suppose, Mr. Zia is the owner of a house which he let out at a monthly rent of Tk. 9,500. Municipal value of the house is Tk. 120,000. As per the agreement, the owner will pay water and gas bill of the tenant, which amounted to Tk. 10,000 for the year. Here annual value of the house is –

Actual Rental Value: Rent received ($9,500 \times 12$)	Tk. 114,000	Higher one ↓	Annual Value Tk. 120,000
Less. Tenant's expense paid by owner	10,000		
Actual Rental Value	Tk. 104,000		
Municipal Value	Tk. 120,000		

SELF REVIEW 8 – 2

Mr. Akmal is the owner of a house which he let out at a monthly rent of Tk. 10,000. Calculate the actual rental value of the house if as per agreement –

- (a) the tenant paid municipal tax of Tk. 5,000
- (b) the owner paid gas and water bill of the tenant Tk. 6,000.

8.8 RENTAL STATUS OF THE HOUSE PROPERTY

Actual assessment of income from this head is based on rental status of house property. Rental status house property can be classified as:

1. Fully let out house property
2. Partly let out house property
3. Fully occupied house property by the owner

8.8.1 Fully let out house property:

Annual value in such a case refers to all reasonable income (municipal value) generated from the whole house property or the actual annual rental income from the same property if reasonable income is less than actual rental income [Section: 2(3)(a)].

Suppose Mr. D is the owner of a house which he let out at a monthly rent of Tk. 8,500. Annual municipal value of the house is Tk. 96,000. Here, annual value of the house is:		
Actual Rental Value ($8,500 \times 12$)	Tk. 102,000	Higher one →
Municipal Value	Tk. 96,000	
		Annual Value Tk. 102,000

8.8.2 Partly let out house property:

When a part of the house is used by the owner for his own purpose and the other part is let out then only income from the let out part is needed to be assessed. Annual value in such a case refers to all reasonable income (municipal value) generated from the let out part of the house property or the actual annual rental income from the let out part of the same property if reasonable income is less than actual rental income. Here it is to be noted that, all admissible expenses against this income should also be considered proportionately for the let out part.

Suppose Mr. Rafi is the owner of a three-storied building at Banani. He resides in the first floor and let out all other floors at a monthly annual rent of Tk. 15,000 per floor. Annual municipal value of the house is Tk. 600,000. Here, annual value of the house is:		
Actual Rental Value ($15,000 \times 12 \times 2$)	Tk. 360,000	Higher one →
Municipal Value ($600,000 \times 2/3$)	Tk. 400,000	
		Annual Value Tk. 400,000

8.8.3 Fully occupied house property by the owner:

Annual value in such a case is not needed not to be computed and considered as non-assessable income according to the Income Tax Ordinance, 1984.

SELF REVIEW 8 - 3

Mr. Akmal is the owner of a house; municipal value of which is Tk. 135,000. He can let the house out at a monthly rent of Tk. 10,000. Calculate the annual value when – (a) the house was fully let out (b) half of the house was let out and (c) the house was fully occupied by the owner

8.9 ADMISSIBLE EXPENSES OF HOUSE PROPERTY [SECTION: 25]

Following expenses are allowed to be deducted from the annual value of the house property to calculate income from this head:

- 8.9.1. **Land development tax or rent:** Any sum payable to government as land development tax or rent on account of the land comprised in the property [Section 25(1)(a)].
- 8.9.2. **Insurance premium:** The amount of any premium paid to insure the property against risk of damage or destruction [Section 25(1)(b)].

Chapter – 8: Income from House Property

- 8.9.3. Interest on mortgage loan:** Where the property is subject to mortgage or other capital charge for the purpose of extension or reconstruction or improvement, the amount of any interest payable on such mortgage or charge [Section 25(1)(d)].
- 8.9.4. Annual tax:** Where the property is subject to an annual charge (includes any tax leviable in respect of property or income from property, by local authority or government but does not include the tax leviable under this Ordinance) not being a capital charge [Section 25(1)(e)].
- 8.9.5. Ground rent:** When the assessee is the lessee of the land on which the building is erected, he/she may need to pay ground rent in respect of the land. Where the property is subject to a ground rent, the amount of such rent is an admissible expense as per section 25(1)(f).
- 8.9.6. Interest on borrowed capital:** Where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital from bank or financial institution, the amount of any interest payable on such capital is an admissible expense as per section 25(1)(g). *[Note: If the loan is taken from sources other than bank or financial institution, interest on loan will not be admissible]*
- 8.9.7. Interest on borrowing during construction:** Where the property has been constructed with borrowed capital from bank or financial institution, and no income under section 24 was earned from that property during the period of such construction, the interest payable during that period on such capital can be adjusted against income generated from the property after construction, in three equal proportionate installments for subsequent first three years as per section 25(1)(gg).
- 8.9.8. Vacancy allowance:** When the property was vacant during a part of the year, a sum equal to such portion of the annual value of the property is admissible as vacancy allowance as per section 25(1)(j) and section 25(1)(k).
- 8.9.9. Uncollectible rent:** When the owner fails to collect rent from any tenants even after taking necessary action, he/she is suppose to adjust such amount of uncollectible rent with the annual value of the property, provided that he/she has to provide supporting documents in relation to such uncollectible rent subject to the fulfillment of the following conditions:
- (a) That the house was legally let out.
 - (b) That the tenant has been vacated from the house through proper action.
 - (c) That no other house of the same owner was in possession of the same tenant during period of rent defaulted.
 - (d) That proper legal action was taken to recover the outstanding rent.
- 8.9.10. Repair and maintenance:** Expenditure for repairs, collection of rent, water, sewerage and electricity, salary of darwan, security guard, pump-man, lift-man and caretaker and all other expenditure related to maintenance and provision of basic services, admissible limit is as follows as per section 25(1)(h):
- (i) an amount equal to **one-fourth (25%)** of the annual value of the property if the property is let out for residential purpose
 - (ii) an amount equal to **thirty per cent (30%)** of the annual value of the property where the property is let out for commercial purpose

Here, it should be remembered that, if the actual repair and maintenance amount is less than the allowable amount, the unspent amount would have to be shown as income under the same head.

Example – 1: Suppose, Mr. Adib is the owner of two houses: one at Dhaka and another at Khulna. He has let out both the houses at an annual rental amount of Tk. 580,000 and Tk. 600,000 respectively. Municipal values of these houses are Tk. 600,000 and Tk. 575,000 respectively. House at Dhaka was let out for residential purposes whereas house at Khulna for commercial purpose. Here, admissible repair and maintenance expense is:

House at:	Dhaka	Khulna
Actual Rental Value	Tk. 580,000	Tk. 600,000
Municipal Value	600,000	575,000
Annual Value (higher one)	600,000	600,000
Admissible expenses:		
<i>Repair and maintenance</i>		
[Dhaka: 6,00,000 X ¼]; [Khulna: 6,00,000 X 30%]	<u>150,000</u>	<u>180,000</u>

Example – 2: Suppose, Mr. Adib is the owner of a house in Dhaka. He has let out the full house @ Tk. 100,000 per month for commercial purpose and the municipal value of the house is Tk. 1,300,000. What will be the amount of admissible repair and maintenance expense under following independent cases?

- (a) Actual amount spent as repair and maintenance Tk. 400,000
- (b) Actual amount spent as repair and maintenance Tk. 350,000

Solution:

Annual value: Higher of actual rental value Tk. 12,00,000 or municipal value Tk. 13,00,000 i.e. Tk. 13,00,000. Since the house has been let out for commercial purpose, allowable repair and maintenance expense as per section 25(1)(h) is 30% of annual value i.e. Tk. 390,000. Since section 19(30) has specified to show any unspent amount of such deducted amount as income under this head, it is logical that if the actual repair and maintenance expense amount is less than the allowed figure, actual amount should be deducted as repair and maintenance amount. If the allowable amount is deducted, then unspent amount (Allowable repair and maintenance amount – Actual repair and maintenance expense) should be shown as income under this head.

SELF REVIEW 8 – 4

Mr. Akmal owns a house, municipal value of which is Tk. 135,000. He has let the house out @ Tk. 10,000 per month and spent Tk. 45,000 as repair and maintenance expense. The house remains vacant for 2 months during the year. Calculate repair & maintenance and vacancy allowance if the house was let out for (a) residential (b) commercial purpose.

8.10 TAX DEDUCTION AT SOURCE FROM HOUSE PROPERTY

Where the tenant in respect of a house property is the government or any authority (corporation formed under any Act or Ordinance), shall deduct tax as advance tax from the rental amount @ 5%. But such amount of tax is subject to refund if income of the owner is not liable to pay tax or if amount of advance tax is more than the owner's total tax liability. No such deduction is required when the owner holds certificate stating that there is no assessable income against this assessee. According to Section 53A of the ITO, 1984 –

Chapter – 8: Income from House Property

1. Where, the Government or any authority, corporation or body, including its units, the activities or the principal activities of which are authorized by any Act, Ordinance, order or instrument having the force of law in Bangladesh or any company as defined in clause (20) of Section 2, or any banking company or any co-operative bank established by or under any law for the time being in force or any non-governmental organization run or supported by any foreign donation or assistance or any university or medical college or dental college or engineering college or any college or school, or hospital or clinic or diagnostic centre is a tenant in respect of a house property, the tenant shall deduct from the house rent paid or payable as advance tax at the rate of 5%.

Explanation – For the purpose of this section, “house rent” means any payment, by whatever name called, under any lease, tenancy or any other agreement or arrangement for the use of any building including any furniture, fittings and the appurtenant land.

2. Where, after the assessment made for the relevant year, it is found that no tax was payable by the owner of the house property or the amount of tax deducted is in excess of the amount payable, the amount deducted shall be refunded, -
 - (a) if no tax was payable, in full, or
 - (b) if the amount deducted is in excess of the amount payable, to the extent of the excess deduction to the owner of the house property.
3. Where the DCT, gives a certificate in the prescribed form to an owner of house property that, to the best of his belief, the owner is not likely to have any assessable income during the year or the income is otherwise exempted from payment of income tax under any provisions of this Ordinance, payment referred to in sub-section (1) shall be made without any deduction until the certificate is cancelled.

8.10.1 Computation of TDS from house property –

According to Section 53A of the ITO, 1984, every person mentioned in that section who is responsible for making any payment to the owner of a house property on account of house rent shall deduct an amount calculated on such payment at the rate of 5%. Here rent received is the amount after TDS. The amount of TDS can be computed as:

$$\text{TDS} = \text{Rent Received} \times [\text{TDS Rate} \div (100 - \text{Rate of Tax Deducted at Source})]$$

Suppose, Mr. Zia is the owner of a house which he let out at a gross monthly rent of Tk. 25,000 to a government authority. The government authority deducts tax at source at prescribed rate (5%) before paying the rent to him and Municipal value of the house is Tk. 290,000. Here annual value of the house will be calculated as follows:

Actual Rental Value: Rent received ($23,750 \times 12$)	Tk. 285,000		Higher one
Add. TDS [$285,000 \times \{5 \div (100 - 5)\}$]	15,000		
Actual Rental Value	Tk. 300,000		<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">Annual Value Tk. 300,000</div>
Municipal Value	Tk. 290,000		

SELF REVIEW 8 – 5

Mr. Miraj is the owner of a house which he let out at a gross monthly rent of Tk. 45,000 to a government authority. The government authority deducts tax at source at prescribed rate (5%) before paying the rent to him and Municipal value of the house is Tk. 500,000. Calculate the annual value of the house assuming that the tenant deducts tax at source at prescribed rate.

8.11 MAINTENANCE OF ACCOUNT IN A BANK BY THE OWNER OF HOUSE PROPERTY [IT RULE 8A, Income tax Circular No. 2 (IT)/2014 dated July 22, 2014 & SRO 216/AIN/IT/2014 dated 18/08/2014]]

Subject to the provisions of sub-rules (2) and (3), where any person having ownership or possession of any property, whether used for commercial or residential purposes, receives any sum or aggregate of sums exceeding Tk. 25,000/- (twenty five thousand) per month in respect of any rent of such house property or its unit, such person shall maintain a bank account in any scheduled bank for the purpose of depositing rent of the house property or its unit and deposit such rent or any advance received or receivable from such house property or its unit in such bank account. Where the person having ownership or possession mentioned in sub-rule (1) has one or more tenants and receives the sum or aggregate of sums exceeding taka 25,000/- (twenty five thousand) per month, he may maintain a separate register and record regarding particulars of the tenant or tenants and the sum or sums received.

Nothing contained in this rule shall prevent such person from recording any other particular in the register as specified in sub-rule (2). **Penalty for Non-compliance of this provision by the house owner (individual, firm, company or any other organization):** Higher of 50% of *income tax payable amount for house property income* or Tk. 5,000. Before imposition of penalty, the assessee must be sent a notice under section 130 for hearing. If any assessee (individual, firm, company etc.) has income from business and profession, he has to pay the rent of the house/office/shop that is used for his business / profession through bank. Otherwise, such rent payment will not be considered as admissible expenses rather will be considered as income and income tax will be applicable on such income. This provision has been taken into effect from July 01, 2014.

8.11.1 Duties / Responsibilities to be performed by the house owners / tenants for house rent related issues:

- (i) If the aggregate monthly house rent amount from one or more tenants exceeds Tk. 25,000, the assessee, being the owner or beneficiary of the house, shall maintain a bank account in any scheduled bank for the purpose of depositing rent of the house property;
- (ii) Such bank account may also be used to deposit other incomes of the assessee in addition to house rent or advance rent;
- (iii) The assessee may maintain a separate register for his convenience in records, where the monthly rent amount exceeds Tk. 25,000;
- (iv) The register shall contain details and particulars of the tenants' i.e. name, address, date of rent payment, house rent amount received etc.;
- (v) The assessee must notify the concerned DCT regarding the bank account details where house rent amount is deposited and the statement of such bank account must be submitted with income tax return;
- (vi) In case of multiple owners of a house, bank account maintenance provision will be applicable to those owners whose proportional house property income exceeds Tk. 25,000 per month;
- (vii) Tenants may pay house rent to the landlord through crossed cheque or may deposit the rent directly to the landlord's bank account. If any tenant pays the rent in cash, the landlord will deposit that amount to his bank account;
- (viii) The assessee may also open and maintain a separate bank account in this regard; and

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- (ix) If any house owner stays in abroad and gives power of attorney to any person for the rent collection and maintenance of the house, the person having the power of attorney will be responsible to maintain the bank account.

Example – 1: Mr. Amit Hasan lives in his 6 storied paternal house at Dhanmondi R/A. There are 10 flats in the house and the ownership of the house belongs to four successors of his deceased father (Mr. Hasan himself, his mother and two sisters) by way of inheritance. Mr. Amit owns four flats of which one is used by him as his own residence and rest of the three flats are let out at a monthly rent of Tk. 25,000 per flat. His mother, who owns two flats, lives with his son Mr. Amit Hasan and her flats are also let out @ Tk. 25,000 per flat. His sisters own two flats each, which are also let out @ Tk. 25,000 per flat. Moreover, Mr. Amit has taken the possession of a flat from a Real Estate Developer at Gulshan and the registration process has not yet been completed. The flat is also let out @ Tk. 40,000 per month. He also owns two shops in Newmarket of which one is used by him for his own business and another one is let out @ Tk. 10,000 per flat. Now, on whom the requirement of a bank account will be applicable? Here,

Sl.	Particulars of House Rent	Monthly Rent Collection		
		Mr. Amit	Amit's Mother	Sisters (each)
1	Rent of Flats at Dhanmondi	Tk. 75,000	Tk. 50,000	Tk. 50,000
2	Rent of Flats at Gulshan	Tk. 40,000	-	-
3	Rent of Shop at Newmarket	Tk. 10,000	-	-
	Total monthly rent	Tk. 125,000	Tk. 50,000	Tk. 50,000

As monthly rent exceeds Tk. 25,000, all of them have to operate bank accounts to deposit house rent. They also have to maintain a separate register to record the relevant details of the tenants and rent collection. The tenants may (1) pay the rent through crossed cheques, (2) deposit the rent to landlord's bank account directly, or (3) pay rent in cash which will be later deposited by the landlord to the respective bank account.

Example – 2: Mr. Sagar has let out a flat in Arambag to university students. There are four rooms in the flat and in each room four students live. Each student pays Tk. 2,500 rent per month. Moreover, he has four small rooms under his possession in Mirpur from which he gets Tk. 3,000 as rent for each room. Now, will the requirement of a bank account be applicable for Mr. Sagar?

Sl.	Details of house rent	Monthly rent collection
1.	Rent from Arambag house (4 × 4 × Tk. 2,500)	Tk. 40,000
2.	Rent from Mirpur house (Tk. 3,000 × 4)	Tk. 12,000
	Total	Tk. 52,000

Although Mr. Sagar receives less than Tk. 25,000 from each of the tenants, he has to maintain bank account as total monthly rent exceeds Tk. 25,000.

Example – 3: Prime Bank, Mirpur Branch, is situated at a rented house. The monthly house rent is Tk. 30,000 and after deducting 5% TDS as per the law, the bank pays Tk. 28,500 as house rent. The ownership of the house belongs to four successors (2 sons and 2 daughters) of their deceased father Mr. Hasan. The successors divide the monthly house rent on the basis of the Muslim Shariah Law and in this way each son and daughter gets Tk. 9,500 and Tk. 4,750 respectively per month from the rent. Now, will the requirement of a bank account be applicable for them?

As each of them receives less than Tk. 25,000 as monthly house rent, the requirement of bank account will not be applicable for them. But if any of them owns some other houses and aggregate monthly rent exceeds Tk. 25,000 per month, the bank account maintenance will be mandatory.

Example – 4: Mr. Ahsan has been paying income taxes for last 20 years. Income from house property is one of his sources of income. In the assessment year 2015-16, he has shown house rent of Tk. 30,000 per month from a flat owned by him. After the imposition of new provisions, he has revised the deed with his tenant and received the house rent Tk. 20,000 in cash and Tk. 10,000 in cheque.

In the assessment year 2017-18, if he submits the income tax return with the bank statement showing Tk. 10,000 as monthly house rent and later during assessment period if it is found that he has shown Tk. 30,000 as monthly house rent in the assessment year 2015-16, the DCT may determine the monthly rent as Tk. 30,000 or any other reasonable value on the basis of Section 2(3) for the assessment purpose. Mr. Ahsan will have to pay income taxes on the basis of revised assessment done by the DCT and the DCT will also impose a penalty for non-compliance of Rule 8A under Section 123(2). The penalty amount will be higher of 50% of income tax payable amount for house property income or Tk. 5,000.

Moreover, it is to be provided that if any house owner shows less house rent income despite having more than Tk. 25,000 monthly house rent income, tax will be further determined under Section 93 of the ITO, 1984 (Assessment in case of income escaping assessment, etc.) and he will be fined under both section 128(Penalty for concealment of income) and section 123(2).

Example – 5: Mr. Hossain was the owner of a five storied house having ten flats. After his death, he left six successors (wife, three sons and two daughters). Five flats are occupied by the owners as their residence and rest of the flats are let out at a monthly rent of Tk. 20,000 per flat.

Under such circumstances, bank account maintenance is not mandatory as none of the owner's monthly house rent exceeds Tk. 25,000.

Example – 6: Mr. Zakir, a non resident Bangladeshi, lives in Canada. He owns a five storied building (total 10 flats) in Mirpur. He has given the power of attorney to his brother Mr. Azad for the maintenance and rent collection of the house.

Under such circumstances, on behalf of Mr. Zakir, Mr. Azad will have to operate a bank account to deposit the house rent amount. The bank statement of the account maintained by Mr. Azad will have to be submitted with the income tax return of Mr. Zakir as proof of house rent income.

Example – 7: Mr. Anis hasn't maintained any bank account to deposit house rent. In the assessment year 2016-17, he has shown total income of Tk. 14,50,000 (business income Tk. 500,000; house property income Tk. 600,000 and income from other sources Tk. 350,000). What amount of fine will be imposed on him under section 123(2) for not maintaining the bank account to deposit the house rent income? Here, his tax liability is Tk. 197,500 as shown below:

Calculation of Tax liability:			
		Rate	Tk.
On the first	Tk. 250,000	0%	Nil
On the next	400,000	10%	40,000
On the next	500,000	15%	75,000
On the next	<u>300,000</u>	20%	<u>60,000</u>
Total	14,50,000		175,000
Less: investment tax credit*			nil
Net tax liability			<u>175,000</u>

* assuming he has no investment allowance.

Fine to be imposed for not maintaining the bank account to deposit the house rent income:

Income tax payable on house property income = $(175,000 \div 14,50,000) \times 600,000 = \text{Tk. } 72,414$

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Under Section 123(2), the penalty amount will be higher of 50% of income tax payable amount for house property income (i.e. 50% of Tk. 72,414) = Tk. 36,207 or Tk. 5,000. So, the penalty amount will be Tk. 36,207.

In this regard, total payable amount of Mr. Anis will be (Tk. 175,000 + Tk. 36,207) = Tk. 211, 207. If any interest or surcharge is applicable on it under section 73, it will also be imposed accordingly.

Example – 8: Mrs. Haque has income from business and profession. She has claimed Tk. 60,000 (monthly Tk. 5,000) as admissible expense for house rent. As per Rule 8A, if such amount is not paid through crossed cheque or bank transfer, it will not be considered as admissible expense rather will be considered as income from business and income tax will be applicable on such income.

SPECIMEN FORM OF COMPUTATION OF "INCOME FROM HOUSE PROPERTY"

Assessee:

Assessment year: 2017 – 2018; Income year: 2016 – 2017

Computation of total income

Income from House Property (Section 24 – 25):	Tk.	Tk.
Actual rental value	XX	
Add: Owner's expenses paid by the tenant	XX	
TDS (If deducted from income from house property)	XX	
Less: Tenant's expenses paid by the owner	(XX)	
Actual rental value	XX	
Municipal Value	XX	
Annual Value: Higher of actual rental value and municipal value		XX
Receipt of Advance u/s 19(22)*		XX
Unspent amount of allowable repair and maintenance expense**		XX
Less: admissible expenses:		XX
1. Land development tax	XX	
2. Insurance Premium	XX	
3. Interest on Mortgage Loan	XX	
4. Annual tax [Municipal or local authority tax]	XX	
5. Interest on Borrowed Capital	XX	
6. Ground Rent	XX	
7. Repair & Maintenance Expenses	XX	
[Collection charge, sewerage bill, salary of guard, liftmen, caretaker]		
[Admissible limit: Resident house: 25% & Commercial house: 30%]		
8. Vacancy Allowance	XX	
9. Uncollectible Rent	XX	
10. Refund of Advance	XX	XX
Total Income	XX	XX

Full amount of Advance receipts may be shown as income in the income year when it is received or at the option of the assessee it may be equally allocated to the year of receipt and four years next following.

If actual repair and maintenance expense amount is less than the allowable repair and maintenance expense, the unspent amount is to be considered as income here.

Illustration 8 – 1:

Mr. Jashim is an assistant professor of a private college. He is the owner of a house at Mirpur, which has been let out for residential purpose at Tk. 19,000 per month. The municipal value of the house is Tk. 240,000 annually.

Expenses that were incurred in the income year 2016 – 2017 for that house includes: Repair expense Tk. 65,000; City Corporation tax Tk. 7,000; Rent collection expenses Tk. 12,000; Fire insurance premium Tk. 750 per quarter; and Interest on borrowed fund Tk. 2,500.

Compute income from house property for the income year 2016-17.

Solution 8 – 1:

Mr Jashim Income year: 2016 – 2017 Assessment year: 2017 – 2018 Calculation of Total Income		
Income from House Property (Section – 24):	Tk.	Tk.
Actual rental value (19,000 X 12)	228,000	
Municipal Value	240,000	
Annual Value (higher one)		240,000
Less: Admissible expenses –		
Repair and Maintenance (240,000 X 25%)	60,000	
City corporation Tax	7,000	
Fire Insurance premium (750 X 4)	3,000	
Interest on borrowed fund	2,500	72,500
Total		<u>167,500</u>

Notes:

- (1) The house is for residential purpose and so repair and maintenance expense is considered as 25% of the annual value. Since, actual spending for repair expenses and collection expenses is more than the allowable limit, there is no unspent amount as per S19(30).
- (2) Annual expenses should be deducted from the annual value of the house. So fire insurance premium converted to annual figure by multiplying 4 with quarterly premium.

Illustration 8 – 2:

Mr. Jaman has a house at Mohakhali C/A with an area of 4,800 square feet. He let out this house to a computer firm at an annual rent of Tk. 600,000. The municipal value per square feet at Mohakhali C/A is Tk. 120.

Expenses that were incurred during the income year includes:

- (a) Repair expense Tk. 190,000;
- (b) City Corporation tax Tk. 15,000;
- (c) Fire insurance premium Tk. 9,000;
- (d) Night guard's salary Tk. 7,000; and
- (e) Installation of electricity line Tk. 25,000.

During the year Mr. Jaman paid installment of loan to HBFC Tk. 67,500 (principal amount is Tk. 64,000). According to the agreement the owner bears the water and gas bill of the tenant which amounted to Tk. 20,000 for the year.

Compute income from house property for the income year ended 30th June 2017.

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Solution 8 – 2:

Mr. Jaman

Income year: 2016 – 2017

Assessment year: 2017 – 2018

Calculation of Total Income

	Tk.	Tk.
Income from House Property (Section – 24):		
Rental value	600,000	
Less: Tenants expenses paid by owner	20,000	
Actual Rental value	580,000	
Municipal Value (4,800 × 120)	576,000	
Annual Value (higher one)		580,000
Less: Admissible expenses:		
Repair & Maintenance (580,000 × 30%)	174,000	
City corporation tax	15,000	
Fire insurance premium	9,000	
Interest on borrowed Fund	3,500	201,500
Total Income		378,500

Notes:

- (1) Since the house is let out for commercial purpose, repair and maintenance expense is considered as 30% of the annual value. Since, actual spending for repair expenses and collection expenses is more than the allowable limit, there is no unspent amount as per S19(30).
- (2) Installation of electricity line is a capital expenditure, so this is not admissible.

Illustration 8 – 3:

Mr. Adib is the owner of three houses at Dhanmondi, Dhaka; Agrabad, Chittagong; and Thakurpara, Comilla. Details of these houses are given below:

Details	Dhanmondi	Agrabad	Thakurpara
Number of storied	3	1	2
Number of flats in each floor	2	1	4
Rental status	Fully let out	Occupied by the owner	Partly let out
Municipal value (annual)	Tk. 900,000	Tk. 120,000	Tk. 700,000
Rental value (each flat per month)	12,000	-	7,000
Expenses incurred:			
Repair and maintenance	240,000	25,000	165,000
Insurance premium (quarterly)	2,000	-	1,500
Salary of guard	15,000	5,000	7,000
Ground rent	2,000	3,000	-
Local government tax (per month)	1,200	600	500
Interest on borrowed fund	5,000	-	4,000

In Dhanmondi, Dhaka one flat remain vacant for two months period and in Thakurpara, Comilla two flats are occupied by his sons who are fully dependent on him. House at Dhanmondi has been let out for residential purpose while house at Thakurpara has been let out to a commercial firm.

Compute Mr. Adib's income from house property for the income year ended 30th June 2017.

Solution 8 – 3:

Mr. Abid			
Income year: 2016 – 2017			
Assessment year: 2017 – 2018			
Calculation of Total Income			
	<u>Tk.</u>	<u>Tk.</u>	<u>Tk.</u>
Income from House property (Section – 24):			
House at Dhanmondi:			
Actual Rental value (12,000 × 12 × 6)	864,000		
Municipal Value	<u>900,000</u>		
Annual Value (higher one)		900,000	
Less: Admissible expenses:			
Repair & maintenance (900,000 × 25%)	225,000		
Fire Insurance Premium (2,000 × 4)	8,000		
Ground rent	2,000		
Local Govt. Tax (1,200 × 12)	14,400		
Interest on borrowed Fund	5,000		
Vacancy allowance [(900,000 ÷ 6) × 2/12]	<u>25,000</u>	<u>279,400</u>	620,600
House at Thakurpara:			
Actual rental Value (7,000 × 6 × 12)	504,000		
Municipal Value (700,000 × 6 ÷ 8)	<u>525,000</u>		
Annual value (higher one)		525,000	
Less: Admissible expenses:			
Repair & Maintenance (525,000 × 30%)	157,500		
Insurance premium [(1,500 × 4) × 6/8]	4,500		
Local govt. Tax [(500 × 12) × 6 ÷ 8]	4,500		
Interest on borrowed fund [4000 × 6 ÷ 8]	<u>3,000</u>	<u>169,500</u>	<u>355,500</u>
Total			<u>976,100</u>

Notes: (1) House at Agrabad is occupied by the owner, so it is fully exempted. (2) The flats occupied by the son are exempted as they are fully dependent to the owner. (3) Since, actual spending for repair expenses and collection expenses is more than the allowable limit, there is no unspent amount as per S19(30).

Illustration 8 – 4:

Mr. Arup is the owner of a four-storied building at Mohakhali. Mr. Arup resides with his family in the 2nd floor and all other floors (in each floor there are two flats) are let out for residential purpose at a monthly rent of Tk. 9,200 per flat. The municipal value of the house is Tk. 900,000.

Expenses that were incurred in the income year 2016 – 2017 for that house includes:

Repair expenses Tk. 170,000; City Corporation tax Tk. 22,000; Insurance premium Tk. 16,000; Caretaker and Night guard salary Tk. 24,000; Land revenue paid Tk. 2,000; Interest on Mortgage loan paid Tk. 4,000; Alteration cost for ground floor Tk. 30,000 and Installation of IPS Tk. 25,000. During the year one of the tenants in the ground floor left the house without paying rent for one month. Mr. Arup even after taking necessary legal action fails to collect this rent. Besides, the same flat was vacant for two months during the year.

Compute income from house property for the income year.

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Solution 8 – 4:

Mr. Arup

Income year: 2016 – 2017; Assessment year: 2017 – 2018

Calculation of Total Income

Income from House property (Section - 24):	Tk.	Tk.
Actual rental value ($9,200 \times 12 \times 6$)	662,400	
Municipal value ($9,00,000 \times 6 \div 8$)	675,000	
Annual value (higher one)		675,000
Less: Admissible expenses:		
Repair & maintenance ($675,000 \times 25\%$)	168,750	
City corporation tax ($22,000 \times 6 \div 8$)	16,500	
Insurance premium ($16,000 \times 6 \div 8$)	12,000	
Land revenue paid ($2,000 \times 6 \div 8$)	1,500	
Mortgage interest paid ($4,000 \times 6 \div 8$)	3,000	
Vacancy allowance ($6,75,000 \div 6 \times 2 \div 12$)	18,750	
Uncollectible rent ($6,75,000 \div 6 \times 1 \div 12$)	9,375	
Total		<u>229,875</u>
		<u>445,125</u>

Note: (1) Alteration cost for ground floor & installation of IPS are capital expenditure. (2) Since, actual spending for repair and collection expenses is more than the allowable limit, there is no unspent amount.

Illustration 8 – 5:

Mr. Abedin is the owner of a four-storied building at Mirpur. In the each floor of the building there are two flats. Mr. Abedin resides with his family in one flat of the 2nd floor and in another flat of the same floor is used as residence by his elder son who is fully dependent on him. All other flats were let out for residential purpose at a monthly rent of Tk. 10,000 per flat. During the year, the owner has borne the water and gas bill of a tenant amounted to Tk. 30,000 and one of the tenants has borne repair expense of Tk. 10,000. The municipal value of the house is Tk. 960,000. Advance received Tk. 100,000 during the year and refund of advance was Tk. 40,000. Expenses related to the property for the year were: Repair expenses Tk. 190,000; City Corporation tax Tk. 22,000; Insurance premium Tk. 16,000; Caretaker and Night guard salary Tk. 24,000; Painting cost of the building Tk. 15,000; Land revenue paid Tk. 2,000; Mortgage interest paid Tk. 4,000; Legal expense Tk. 6,000; Alteration cost for ground floor Tk. 30,000; Installation of generator Tk. 50,000; and Fuel cost of generator Tk. 20,000. During the year one of the tenants in the ground floor left the house without paying rent for one month. Mr. Abedin even after taking necessary legal action fails to collect this rent. Besides that the same flat was vacant for two months during the year. Compute income from house property for the income year ended 30th June 2017.

Solution 8 – 5:

Mr. Abedin

Income year: 2016 – 2017; Assessment year: 2017 – 2018

Calculation of Total Income

Income from House property (Section - 24):	Tk.	Tk.
Annual Value:		
Rent received ($10,000 \times 6 \times 12$)	720,000	
Add: Owner's exp. paid by tenant	10,000	
	730,000	
Less: Tenant's exp. paid by owner	30,000	

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Actual rental value	700,000	
Municipal value ($9,60,000 \times 6 \div 8$)	720,000	
Annual value (higher one)		720,000
Advance Received		100,000
Less: Admissible expenses:		820,000
Repair & maintenance ($720,000 \times 25\%$)	180,000	
City corporation tax ($22,000 \times 6 \div 8$)	16,500	
Insurance premium ($16,000 \times 6 \div 8$)	12,000	
Land revenue paid ($2,000 \times 6 \div 8$)	1,500	
Mortgage interest paid ($4,000 \times 6 \div 8$)	3,000	
Uncollectible rent [$(7,20,000 \div 6) \times 1/12$]	10,000	
Vacancy all. [$(7,20,000 \div 6) \times 2/12$]	20,000	
Refund of advance	40,000	283,000
Total		537,000

Note: Since, actual spending for repair expenses and collection expenses is more than the allowable limit, there is no unspent amount as per Section 19(30).

Illustration 8 – 6:

Mr. Jalal Ahmed is the owner of a two-storied building at Gulshan. Mr. Ahmed resides with his family in one floor and another floor has been let out to a government authority at a monthly rent of Tk. 30,000. The government authority deducts tax at source at prescribed rate (5%) before paying the rent to him. The municipal value of the house is Tk. 725,000. Expenses incurred for that house during the year were: Repair expenses Tk. 110,000; City Corporation tax Tk. 22,000; Insurance premium Tk. 16,000; Caretaker and Night guard salary Tk. 24,000; Purchase of diesel for generator Tk. 12,000; Legal expense Tk. 10,000; Land revenue paid Tk. 2,000; Interest paid to HBFC Tk. 6,000; and Alteration cost for ground floor Tk. 30,000. Besides, the let out floor was vacant for two months during the year. Compute income from house property for the year ended 30.06.17.

Solution 8 – 6:

Mr. Jalal Ahmed

Income year: 2016 – 2017; Assessment year: 2017 – 2018

Calculation of Total Income

Income from House property (Section – 24):	Tk.	Tk.
Rental value ($28,500 \times 12$)	342,000	
Add: TDS [$3,42,000 \times 5 \div (100 - 5)$]	18,000	
Actual rental value	360,000	
Municipal value ($7,25,000 \times 1 \div 2$)	362,500	
Annual value (higher one)		362,500
Less: Admissible expenses:		
Repair & maintenance ($362,500 \times 30\%$)	108,750	
City corporation tax ($22,000 \times 1 \div 2$)	11,000	
Insurance premium ($16,000 \times 1 \div 2$)	8,000	
Land revenue paid ($2,000 \times 1 \div 2$)	1,000	
Interest paid to HBFC ($6,000 \times 1 \div 2$)	3,000	
Vacancy allowance ($362,500 \times 2 \div 12$)	60,417	192,167
Total		170,333

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Note: (1) Legal expense is not an admissible expense. (2) Diesel cost is a part of repair and maintenance. (3) Since, actual spending for repair expenses and collection expenses is more than the allowable limit, there is no unspent amount as per S19(30).

Illustration 8 – 7:

Mr. Aziz Ahmed is the owner of a two-storied building at Gulshan. Mr. Ahmed let out one floor for residential purpose at a monthly rent of Tk. 25,000 and another floor has been let out to a government authority at a monthly rent of Tk. 30,000. The government authority deducts tax at source at prescribed rate (5%) before paying the rent to him. The municipal value of the house is Tk. 650,000.

Expenses incurred for that house during the year were:

- (a) Repair expenses Tk. 100,000;
- (b) City Corporation tax Tk. 22,000;
- (c) Insurance premium Tk. 16,000;
- (d) Legal expense Tk. 10,000;
- (e) Land revenue paid Tk. 2,000; and
- (f) Interest paid to HBFC Tk. 6,000; Besides, the let out floor, that has been let out for residential purpose, was vacant for two months during the year.

Compute income from house property for the year ended 30.06.17.

Solution 8 – 7:

Mr. Aziz Ahmed
Income year: 2016 – 2017; Assessment year: 2017 – 2018
Calculation of Total Income

Income from House property (Section – 24):	Tk.	Tk.
Rental value:		
Residential (25,000 × 12)	300,000	
Commercial (28,500 × 12)	342,000	
Add: TDS [3,42,000 × 5 ÷ (100 – 5)]	18,000	
Actual rental value	660,000	
Municipal value	650,000	
Annual value (higher one)		660,000
Unspent repair expense (note – 1)		83,000
		<u>743,000</u>
Less: Admissible expenses:		
Repair & maintenance (note - 1)	183,000	
City corporation tax	22,000	
Insurance premium	16,000	
Land revenue paid	2,000	
Interest paid to HBFC	6,000	
Vacancy allowance (300,000 × 2 ÷ 12)	50,000	279,000
Total		<u>464,000</u>

Note: (1) Allowable repair and maintenance expense [(300,000 × 25%) + (360,000 × 30%)] = Tk.183,000. Actual repair and maintenance expense Tk. 100,000. Since, actual spending for repair expenses and collection expenses is less than the allowable limit, the unspent amount (Tk. 183,000 - Tk. 100,000) = Tk. 83,000 has to be considered as income as per Section 19(30). (2) Legal expense is not an admissible expense.

Illustration 8 – 8:

Mr. Arman has a two storied house at Gulshan. He lives in one floor and let out the other floor to a foreigner for residential purpose at a monthly rent of Tk. 80,000. The municipal value of the house is Tk. 2,000,000. Expenses incurred in the income year 2016 – 2017 for that house were:

- (a) Repair expense Tk. 300,000;
- (b) City Corporation tax Tk. 30,000;
- (c) Fire insurance premium Tk. 18,000;
- (d) Night guard's salary Tk. 30,000; and
- (e) Installation of electricity line Tk. 25,000.

During the year Mr. Arman paid installment of loan to HBFC Tk. 300,000 against a house building loan of Tk. 2,000,000 @ 6% interest. According to the agreement the owner bears the water and gas bill of the tenant which amounted to Tk. 50,000 for the year. Compute income from house property for the income year.

Solution 8 – 8:

Mr. Arman Income year: 2016 – 2017 Assessment year: 2017 – 2018 Calculation of Total Income		
	<u>Tk.</u>	<u>Tk.</u>
Income from House Property (Section – 24):		
Actual rental value:		
Rental value (80,000 × 12)	960,000	
Less: Tenants expenses paid by owner	50,000	
Actual Rental value	910,000	
Municipal Value (2,000,000 ÷ 2)	1,000,000	
Annual Value (higher one)		1,000,000
Less: Admissible expenses:		
Repair & Maintenance (1,000,000 × 25%)	250,000	
City corporation tax (30,000 ÷ 2)	15,000	
Fire insurance premium (18,000 ÷ 2)	9,000	
Int. on borrowed Fund (120,000 ÷ 2)	60,000	
		334,000
Total		<u>666,000</u>

Note:

- (1) Since the house is let out for residential purpose, repair and maintenance expense is considered as 25% of the annual value. Here actual spending for such a purpose is not considerable.
- (2) Installation of electricity line is a capital expenditure, so this is not admissible.
- (3) Since, actual spending for repair expenses and collection expenses is more than the allowable limit, there is no unspent amount.

Illustration 8 – 9:

Mr. Taleb has a two storied building at Motijheel C/A. He has started the construction of the house on 1st July, 2014 and completed the construction on 30th June, 2016. After the construction, he let out the full building to a branch of Prime bank at a monthly rent of Tk. 200,000 effective from 1st July, 2016. He has also taken Tk. 2,000,000 as advance from Prime Bank. The municipal value of the house is Tk. 2,500,000.

Chapter – 8: Income from House Property

Expenses incurred in the income year 2016 – 2017 for that house were:

- (a) Repair expense Tk. 400,000;
- (b) City Corporation tax Tk. 30,000;
- (c) Fire insurance premium Tk. 18,000; and
- (d) Installation of IPS Tk. 50,000.

Mr. Taleb borrowed Tk. 2,000,000 from Prime Bank Motijheel Branch @ 6% interest on 1st July, 2014. Per year installment of the loan is Tk. 300,000 (total interest expense during the construction period of 2 years Tk. 240,000; assuming simple interest).

Compute income from house property for the income year.

Solution 8 – 9:

Mr. Taleb Income year: 2016 – 2017 Assessment year: 2017 – 2018 Calculation of Total Income		
	Tk.	Tk.
Income from House Property (Section – 24):		
Actual rental value:		
Rental value (190,000 × 12)	2,280,000	
Add: TDS [2,280,000 × 5 ÷ (100 – 5)]	120,000	
Actual Rental value	2,400,000	
Municipal Value	2,500,000	
Annual Value (higher one)		2,500,000
Receipt of Advance [2,000,000 ÷ 5]		400,000
Unspent repair exp. u/s 19(30) [750,000 – 400,000]		350,000
		<u>3,250,000</u>
Less: Admissible expenses:		
Repair & Maintenance (2,500,000 × 30%)	750,000	
City corporation tax	30,000	
Fire insurance premium	18,000	
Int. on loan for construction period (240,000 ÷ 3)	80,000	
Interest on loan for current income year	120,000	
		<u>998,000</u>
Total		<u>2,252,000</u>

Note:

- (1) Since the house is let out for commercial purpose, repair and maintenance expense is considered as 30% of the annual value. Here actual spending for such a purpose is not considerable.
- (2) 5% TDS is applicable as the building is let out to a commercial bank.
- (3) Interest on loan during the construction period, is admissible in three equal proportionate installments for subsequent first three years as per section 25(1)(gg).
- (4) Advance amount may be shown fully in the income year or may be allocated among 5 years at the option of the assessee.
- (5) Installation of IPS is a capital expenditure, so this is not admissible.
- (6) As the building is not self-occupied or partially occupied, any amount of interest expense is admissible.
- (7) Since, actual spending for repair expenses and collection expenses is less than the allowable limit, the difference has been considered as income as per Section 19(30).

Illustration 8 – 10:

Mr. Atif Iqbal owns two houses one at Azimpur and another at Dhanmondi. From the following particulars compute his (a) income from house property for the income year 2016 – 2017 and (b) tax liability for the assessment year 2017 – 2018.

House at Azimpur:

This is a three storied building (in each floor there are two flats). One of the flats in first floor (flat no. 2A) is used as residence by Mr. Atif and the other flat (flat no. 2B) in the same floor is used by his son-in-law who pays nothing for it. All other flats were let out for residential purpose at a monthly rent of Tk. 8,000 each. The municipal value of the house is Tk. 480,000. He has also received Tk. 100,000 as advance from the tenants which is not adjustable to rents.

Expenses of the house for the year were:

- (a) Repair expense Tk. 120,000;
- (b) Rent collection expense Tk. 3,000;
- (c) City corporation tax, quarterly Tk. 2,400;
- (d) Land revenue paid Tk. 12,000;
- (e) Salary of guard, monthly Tk. 500;
- (f) Loan repayment to HBFC (including interest Tk. 4,200) Tk. 42,500; and
- (g) Installation of generator Tk. 15,000.

The owner paid the water and gas bill of the tenants which amounted to Tk. 30,000 for the year. Flat no. 3B remains vacant for two months during the year. Moreover, he has refunded Tk. 25,000 advance to a tenant at the time of his departure.

House at Dhanmondi:

The house is let out to a private bank branch and received monthly rent of Tk. 47,500 net of TDS @ 5%. The municipal value of the house is Tk. 625,000. He has receipt advance of Tk. 1,000,000 in this regard which is not to be adjusted against rent.

Expenses of the house for the year were:

- (a) Repair expense Tk. 200,000;
- (b) Fire insurance premium Tk. 25,000;
- (c) Municipal taxes Tk. 12,000;
- (d) Cost of alteration Tk. 55,000;
- (e) Ground rent Tk. 10,000 and
- (f) Legal expenses Tk. 12,000.

According to the terms of the agreement the tenants are to bear the cost of repair which amounted to Tk. 15,000 for the year.

Investments and Expenses:

During the year, Mr. Iqbal incurred the investments and expenses as:

- (i) Family expenses Tk. 350,000;
- (ii) Insurance premium: Own (policy value Tk. 500,000) Tk. 40,000 and Spouse (policy value Tk. 500,000) Tk. 60,000;
- (iii) Purchase of unlisted company's share Tk. 25,000;
- (iv) Donation to the President's relief fund Tk. 20,000;
- (v) Donation to a local club Tk. 6,000;
- (vi) Donation to Government Zakat fund Tk. 30,000 and
- (vii) Donation to a Mosque Tk. 10,000.

Chapter - 8: Income from House Property

Solution 8 – 10:

Mr. Atif Iqbal

Income year: 2016 – 2017

Assessment year: 2017 – 2018

Calculation of income from house property

Income from house property (Section – 24):	Tk.	Tk.	Tk.
House at Azimpur:			
Actual rental value ($8000 \times 5 \times 12$)	480,000		
Less: Tenants expenses paid by owner	<u>30,000</u>		
Actual rental value		450,000	
Municipal Value ($480,000 \times 5 \div 6$)		<u>400,000</u>	
Annual Value (higher one)		450,000	
Receipt of Advance		<u>100,000</u>	
		550,000	
Less: Admissible Expenses:			
Repair & maintenance ($450,000 \times 25\%$)	112,500		
City Corporation Tax ($2400 \times 4 \times 5 \div 6$)	8,000		
Land revenue paid ($12000 \times 5 \div 6$)	10,000		
Interest paid to HBFC ($4,200 \times 5 \div 6$)	3,500		
Vacancy allowance $\{(450,000 \div 5) \times 2 \div 12\}$	15,000		
Refund of advance	<u>25,000</u>	<u>174,000</u>	376,000
House at Dhanmondi:			
Rental value [Tk. $47,500 \times 12$]	570,000		
Add: TDS [$570,000 \times 5 \div (100 - 5)$]	30,000		
Owner's expense paid by tenant	<u>15,000</u>		
Actual Rental Value		615,000	
Municipal value		<u>625,000</u>	
Annual Value (higher one)		625,000	
Receipt of Advance ($1,000,000 \div 5$)		<u>200,000</u>	
Less: Admissible Expenses:		825,000	
Repair & Maintenance ($625,000 \times 30\%$)	187,500		
Fire Insurance Premium	25,000		
Municipal Tax	12,000		
Ground rent	<u>10,000</u>	<u>234,500</u>	590,500
Total			<u>966,500</u>

Calculation of investment allowance for tax credit:

Allowable Investments	Tk.	Tk.
Insurance premium: Own	40,000	
Maximum limit ($500,000 \times 10\%$)	<u>50,000</u>	40,000
Spouse	60,000	
Maximum limit ($500,000 \times 10\%$)	<u>50,000</u>	50,000
Donation to president's relief fund		20,000
Donation to Government Zakat fund		<u>30,000</u>
Actual Investment		<u>140,000</u>

Maximum limit of investment: Lower of 25% of
Total income i.e., Tk. 241,625 or Tk. 15,000,000

2,41,625

Investment tax credit (140,000 × 15%)

21,000

Calculation of Tax liability:

		<u>Rate</u>	<u>Tk.</u>
On the first	Tk. 250,000	0%	Nil
On the next	400,000	10%	40,000
On the next	<u>316,500</u>	15%	<u>47,475</u>
Total	966,500		87,475
Less: investment tax credit			<u>21,000</u>
			66,475
Less: TDS			<u>30,000</u>
Net tax liability			<u>36,475</u>

Notes: (1) As in the list of admissible expenses as per section 25, legal expense is not mentioned it has been ignored. (2) Advance amount may be shown fully in the income year or may be allocated among 5 years at the option of the assessee. (3) Since, actual spending for repair expenses and collection expenses is more than the allowable limit, there is no unspent amount as per S19(30).

KEY POINTS

- Higher of Actual Rental Value (ARV) and Municipal Value (MV) will be considered as the Annual Value (AV) of the house property.
- ARV is the amount received by the owner from the tenant(s) + owner's expenses paid by the tenant – tenant's expenses paid by the owner.
- Any revenue generated from the adjacent premises of a building will also be considered as income from house property.
- No assessment should be made on the property occupied by the owner (or his dependent like, spouse or son) for personal purpose.
- To calculate income from house property admissible expenses are needed to be adjusted with AV of the property.
- Repair and maintenance expenses, as an admissible expense, is considered as 25% of AV, when the property is let out for residential purpose and 30% of AV, when the property is let out for commercial purpose, irrespective of actual spending for such a purpose.
- When the house remains vacant for a certain period, AV is calculated for the whole income year and subsequently proportionate amount of AV for the vacant period will be deducted from AV as admissible expense.
- No capital nature expenditure is allowed as admissible expense.
- Allowable deductions as per Section 25 of the ITO, 1984 are Repair and maintenance, Land development tax, Ground Rent, Annual local tax, Insurance premium, Interest on mortgage loan, Interest on borrowed fund, Vacancy allowance and Uncollectible rent.
- When the tenant is the government or any authority (corporation), tax should be deducted at source by the tenant at the time of paying rent at a rate of 5%.

Chapter – 8: Income from House Property

Multiple choice questions:

1. Annual value of a house property is the –
 - (a) amount of actual rent received
 - (b) higher of municipal value and actual rental value
 - (c) lower of municipal value and actual rental value
 - (d) amount of municipal value
2. When the house property is used fully for personal purpose, amount of income from house property will be –
 - (a) the municipal value of the house
 - (b) the fair market value of the house
 - (c) Tk. 15,000 per month
 - (d) Nil
3. When owner bears any tenant's expenses, it will –
 - (a) reduce amount of rental value
 - (b) reduce amount of municipal value
 - (c) increase amount of rental value
 - (d) increase amount of municipal value
4. Followings are the example of admissible expenses for Income from House Property, except –
 - (a) loan installment
 - (b) repair and maintenance expense
 - (c) uncollectible rent
 - (d) Municipal tax
5. When the house property is let out for commercial purpose, repair and maintenance expense is
 - (a) 30% of the municipal value
 - (b) 25% of the rental value
 - (c) 25% of the annual value
 - (d) 30% of the annual value
6. When the house property is used by son-in-law for free, amount of rental value is –
 - (a) the municipal value
 - (b) the fair market value
 - (c) higher of municipal value and fair market value
 - (d) none
7. Vacancy allowance is the amount equal to –
 - (a) monthly rent multiplied by number of months the house remain vacant
 - (b) proportionate rental value for the vacant month(s)
 - (c) proportionate municipal value for the vacant month(s)
 - (d) proportionate annual value for the vacant month(s)
8. Interest on borrowings during construction period is an admissible expense in the –
 - (a) year when revenue is generated from the house property
 - (b) subsequent year only
 - (c) subsequent three years in equal amount
 - (d) none of the above
9. When the house is let out to a foreign mission @ Tk. 100,000 per month, the rate of TDS is –
 - (a) 3%
 - (b) 5%
 - (c) 7%
 - (d) Nil

10. When the house is let out to a college @ Tk. 40,000 per month, the rate of tax deducted at source is –
- 3%
 - 5%
 - 7%
 - none

Identify the following statements as True (T) or False (F):

- Income should be generated under the head house property from let out part and not from any part used for personal purpose.
- If the tenant bears any owner's expense then it will increase amount of actual rental value of the property.
- Interest on mortgage loan is an admissible expense even when the loan is taken for personal purpose not related to the property.
- Actual amount of repair and maintenance is not relevant to calculate admissible expense relating to the house property.
- Tax will be deducted at source when the tenant is the government or any other authoritative body.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 8 – 1:** Explain the concept of income from house property as per the ITO, 1984.
- Question 8 – 2:** Define Annual value. Explain how it is computed.
- Question 8 – 3:** What are the conditions of taxation on 'Income from House Property'.
- Question 8 – 4:** Discuss the allowable deductions under the head 'Income from House Property' as per Section – 25 of the ITO, 1984.
- Question 8 – 5:** "House property can be under different rental status and so assessment of income based on rental status can be different" – explain.
- Question 8 – 6:** Discuss the rules relating to Tax Deducted at Source (TDS) applicable for the income under the head 'Income from House Property'.
- Question 8 – 7:** State the rate of TDS applicable for house property.
- Question 8 – 8:** Write short notes on:
- Income from partly let out house
 - Annual value
 - Actual Rental value
 - Repair and maintenance expense

Problem 8 – 1:

Mr. Huda is the owner of a house which was rented for Tk. 12,000 per month. The municipal value of the house is Tk. 160,000 annually. Expenses incurred in the income year 2016 – 2017 for that house were:

- Repair expense Tk. 18,000;
- City Corporation tax Tk. 4,800;
- Caretaker salary Tk. 12,000;
- Rent collection expenses Tk. 1,500;
- Fire insurance premium Tk. 500 per month; and
- Interest on borrowed fund Tk. 1,500.

Required: Compute income from house property for the income year.

Chapter – 8: Income from House Property

Problem 8 – 2:

Mr. Simanto has the stated house property income for the year ended 30th June 2017 as:

- (a) Rent received for the year Tk. 600,000;
- (b) Annual value of his house Tk. 650,000;
- (c) He spent for repairing his house Tk. 25,000;
- (d) Ground rent paid Tk. 5,000;
- (e) Collection charges of rent 2% of the total rent;
- (f) Paid guard's salary maintained for his house Tk. 24,000;
- (g) Liftman was paid salary Tk. 30,000;
- (h) Insurance premium paid Tk. 25,000;
- (i) He paid bank interest due to mortgage of the house Tk. 10,000; and
- (j) Land development tax paid to government Tk. 12,000.

Required: How much tax he has to pay?

Problem 8 – 3:

Mr. Belal has a house at Banani with an area of 5,000 square feet. He let out half of this house to a Insurance Company at an annual rent of Tk. 300,000. The municipal value per square feet at Banani is Tk. 125. Expenses incurred in the income year 2016 - 2017 for that house were: Repair expense Tk. 40,000; Maintenance expense Tk. 45,000; City Corporation tax Tk. 20,000; Fire insurance premium Tk. 30,000; and Installation of electricity line Tk. 20,000. During the year Mr. Belal paid installment of loan to HBFC Tk. 48,500 (interest amount is Tk. 4,200). According to the agreement the owner bears the water and gas bill of the tenant which amounted to Tk. 15,000 for the year. Besides all these Mr. Belal let out the garage just besides the building at a monthly rent of Tk. 2,000. Compute income from house property for the income year ended 30th June 2017.

Problem 8 – 4:

Mr. Imtiaz is the owner of a three-storied building (in each floor there are two flats) at Mohakhali. He resides with his family in one flat in the 2nd floor and his son, who is married and not dependent on him, resides in another flat. Moreover one of his married daughters also stays with his husband in one flat of the third floor for which they pay nothing to him. The other flats are let out at a monthly rent of Tk. 8,500 per flat. The municipal value of the house is Tk. 400,000. During the year maintenance expense paid by the tenants was Tk. 25,000 and Mr. Imtiaz paid water and gas bill of Tk. 6,000 on behalf of the tenants.

Expenses incurred in the income year 2016-2017 for that house were: City Corporation tax Tk. 15,000; Insurance premium Tk. 24,000; Caretaker and Night guard salary Tk. 24,000; Legal expense Tk. 5,000; Collection charges of rent 2% of the total rent; Installment of loan paid to HBFC Tk. 12,000 (including interest Tk. 1,500); and Alteration cost for ground floor Tk. 43,000. During the year one of the tenants in the ground floor leave the house without paying rent for one month. Mr. Imtiaz even after taking necessary legal action fails to collect this rent. Besides that the same flat remained vacant for another month during the year.

Problem 8 – 5:

Mr. Alam is the owner of three houses at Azimpur, Dhaka; Laldighi, Chittagong; and Bagicagong, Comilla. Details of these houses are given below:

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Details	House at Azimpur	House at Laldighi	House at Bagicagong
Number of storied	2	2	3
Number of flats in each floor	2	2	1
Rental status	Fully let out	Occupied by the owner	Partly let out
Municipal value (annual)	Tk. 4,00,000	Tk. 1,20,000	Tk. 2,00,000
Rental value (each flat per month)	15,000	-	5,000
Expenses incurred:			
Repair and maintenance	70,000	25,000	55,000
Insurance premium (quarterly)	2,000	-	1,500
Salary of guard (per month)	2,000	1,000	1,500
Ground rent	-	4,000	-
Local government tax (per month)	1,200	600	500
Interest on borrowed fund	8,000	-	6,000

In Azimpur, Dhaka one flat remain vacant for two months period and in Bagicagong, Comilla one flat is occupied by his son-in-law who pays nothing for it. Other flats in Bagicagong were let out to a private nursing home. Compute income from house property for the income year ended 30th June 2017.

Problem 8 – 6:

Mr. Singha is the owner of a three-storied building at Mohakhali. Mr. Singha resides with his family in the 2nd floor and all other floors (in each floor there are two flats) are let out at a monthly rent of Tk. 8,700 per flat. The municipal value of the house is Tk. 660,000. The following expenses were incurred in the income year 2016 - 2017 for that house:

- (a) Repair expenses Tk. 60,000;
- (b) City Corporation tax Tk. 18,000;
- (c) Insurance premium Tk. 15,000;
- (d) Caretaker and Night guard salary Tk. 24,000;
- (e) Land revenue paid Tk. 9,000;
- (f) Mortgage interest paid Tk. 6,000;
- (g) Interest paid to HBFC Tk. 4,500;
- (h) Interest during the construction period Tk. 33,000;
- (i) Alteration cost for ground floor Tk. 60,000.

During the year one of the tenants in the ground floor leave the house without paying rent for one month. Mr. Singha even after taking necessary legal action fails to collect this rent. Besides that the same flat was vacant for two months during the year. Compute income from house property for the income year ended 30th June 2017.

Problem 8 – 7:

Ms. Rodriguez is the owner of a three-storied building (in each floor there are two flats) at Mohakhali. She resides with her family in one flat in the 2nd floor and her son, who is fully dependent on her, resides in another flat. The other two floors have been let out at a monthly rent of Tk. 50,000 each to a Customer Care Center of Grameenphone Limited and a Branch of Prime Bank Limited respectively. In this regard she has received an advance of Tk. 500,000. Moreover, in addition to it she has also let out the garage in the ground floor @ Tk. 15,000 per month to the same companies at an equal proportion. The municipal value of the house is Tk. 1,500,000.

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During the year maintenance expense paid by the tenants was Tk. 25,000 and Ms. Rodriguez paid water and gas bill of Tk. 6,000 on behalf of the tenants. The following expenses were also incurred in the income year 2016-2017 for that house:

- (a) City Corporation tax Tk. 15,000;
- (b) Insurance premium Tk. 24,000;
- (c) Caretaker and Night guard salary Tk. 24,000;
- (d) Legal expense Tk. 5,000;
- (e) Collection charges of rent 2% of the total rent;
- (f) Installment of loan paid to HBFC against a loan of Tk. 24 lac Tk. 300,000 (including interest of Tk. 240,000);
- (g) Installation cost for lift and generator Tk. 50,000

During the year one of the let out floors remained vacant for one month. Compute the amount of taxable income from “Income from House Property” for the income year 2016-17.

Problem 8 – 8:

Ms. Asmit Jahan owns two houses: one at Baridhara and another at Mohammadpur. From the following particulars compute her income from house property for the income year 2016 – 2017 and also tax liability for the assessment year 2017 – 2018.

House at Baridhara:

This is a six storied building (in each floor there are two flats). One of the flats in first floor (flat no. 2A) is used as residence by Ms. Asmit and the other flat (flat no. 2B) in the same floor is used by her son-in-law who pays nothing for it. All other flats were let out at a monthly rent of Tk. 10,000. The municipal value of the house is Tk. 1,500,000. Expenses of the house for the year were: White wash expense Tk. 50,000; Repair expense Tk. 1,25,000; Rent collection expense Tk. 8,000; City corporation tax, quarterly Tk. 12,600; Land revenue paid Tk. 6,000; Salary of guard, monthly Tk. 2,500; Loan repayment to HBFC (including interest Tk. 4,200) Tk. 42,500 and Installation of generator Tk. 35,000. The owner bears the water and gas bill of the tenants which amounted to Tk. 60,000 for the year. Flat no. 3B remains vacant for two months during the year.

House at Mohammadpur:

The house is let out to a private University at a yearly rent of Tk. 800,000. The university authority deducts tax at source at prescribed rate (5%) before paying the rent to him. Municipal value of the house is Tk. 750,000 and expenses of the house for the year were: Fire insurance premium Tk. 25,000; Municipal taxes Tk. 12,000; Cost of alteration Tk. 55,000; Ground rent Tk. 10,000 and Legal expenses Tk. 12,000. According to terms of agreement the tenants is to bear the cost of repair which amounted to Tk. 60,000 for the year.

During the year Ms. Asmit incurred the following investments and expenses:

(a) Family expenses	Tk. 4,20,000
(b) Insurance premium	
Own (policy value Tk. 6,00,000)	80,000
Spouse (policy value Tk. 10,00,000)	90,000
(c) Purchase of listed company's primary share	55,000
(d) Donation to prime minister relief fund	40,000
(e) Donation to local club	16,000
(f) Purchase of Desktop Computer	55,000

Answers:

Multiple choice questions		True/False
1. b	6. b	1. T
2. d	7. d	2. T
3. a	8. c	3. F
4. a	9. d	4. T
5. d	10. b	5. T

Self review 8 – 1:

(a) Actual Rental Value (10,000 X 12)	Tk. 1,20,000
Municipal Value	1,35,000
Annual Value (higher one)	<u>1,35,000</u>

(b) Actual Rental Value (10,000 X 12)	Tk. 1,20,000
Municipal Value	1,10,000
Annual Value (higher one)	<u>1,20,000</u>

Self review 8 – 2:

(a) Actual Rental Value:		
Actual rent received (10,000 X 12)	Tk. 1,20,000	
Add. Owner's expenses paid by tenant	5,000	1,25,000
(b) Actual Rental Value:		
Actual rent received (10,000 X 12)	Tk. 1,20,000	
Less. Tenants expenses paid by owner	6,000	1,14,000

Self review 8 – 3:

	Fully let out	Partly let out	Fully occupied by owner
ARV: 10,000 X 12	Tk. 120,000	Tk. 60,000	-
MV:	135,000	67,500	-
AV (higher one)	<u>135,000</u>	<u>67,500</u>	-

Self review 8 – 4:

Annual Value (AV):
 = higher of ARV and MV
 = higher of ARV (120,000) and MV (135,000)
 = 135,000

Repair and Maintenance expense:
 (a) AV X 25% = 135,000 X 25% = 33,750
 (b) AV X 30% = 135,000 X 30% = 40,500

Vacancy Allowance: (135,000 / 12) X 2 = 22,500.

Since the actual repair expense amount is more than the allowable amount, allowable amount will be deducted as repair and maintenance expense in both the cases.

Self review 8 – 5:

Rent received (42,750 × 12)	Tk. 513,000	
Add. TDS [5,13,000 × 5/100-5]	27,000	
Actual Rental Value	Tk. 540,000	
Municipal Value	Tk. 500,000	
		Higher one ↓ Annual Value Tk. 540,000

CHAPTER – 9

INCOME FROM AGRICULTURE

● LEARNING OBJECTIVES ●

After studying Chapter 9, you shall be able to understand:

- ⊕ the concept of agricultural income
 - ⊕ characteristics of agricultural income
 - ⊕ classification of agricultural income
 - ⊕ what other special considerations determine such income than the usual definition
 - ⊕ nature of partial agricultural income
 - ⊕ admissible expenses to determine this income
 - ⊕ some typical agricultural income
 - ⊕ some typical non agricultural income
 - ⊕ set off and carry forward of agricultural losses
 - ⊕ non assessable income under the head income from agriculture
-

9.1 INTRODUCTION

According to Section 20 of the ITO, 1984, agricultural income is the fourth head among the seven heads of the income. It is the most important sector in the economy of Bangladesh, whereas the contribution of tax from this sector is very insignificant. In Bangladesh, agricultural income was non-assessable upto the year 1976. It has brought under the tax net through the Finance Act 1976.

9.2 AGRICULTURE

Generally the term “agriculture” refers to the production of goods through the growing of plants, animals and other life forms. It also refers to field cultivation or cultivation of the ground, which involves a combination of both basic and subsequent operations:

Basic Operations: Agriculture in its primary sense denotes the cultivation of the field and is restricted to cultivation of the land in the strict sense of the term, meaning thereby tilling of the land, sowing of the seeds, planting and similar operations on the land.

Subsequent Operations: Such operations are absolutely necessary for the purpose of effectively raising the produce and are to be performed after the produce sprouts from the land, e.g. weeding, digging the soil around the growth, removal of undesirable undergrowth, and all operations which foster the growth and preservation of the produce not only from insects and pests but also from depredation from outside, tending, pruning, cutting, harvesting and rendering the produce fit for the market, would all be agricultural operations when taken in conjunction with the basic operations.

Crops or trees of spontaneous growth in forests or any other places where there is no human effort, is not considered as agriculture. As per the various provisions of the ITO, 1984, generally income generated from any land situated in Bangladesh or from any other assets used solely for agricultural purposes is considered as agricultural income.

9.3 SCOPE OF AGRICULTURAL INCOME

According to Section 2(1) of the Income Tax Ordinance, 1984, ‘agricultural income’ means

- (a) any income derived from any land in Bangladesh and used for agricultural purposes–
 - (i) by means of agriculture; or
 - (ii) by the performance of any process ordinarily employed by a cultivator to render marketable the produce of such land; or
 - (iii) by the sale of the produce of the land raised by the cultivator in respect of which no process, other than that to render the produce marketable, has been performed; or
 - (iv) by granting a right to any person to use the land for any period; or
- (b) any income derived from any building which-
 - (i) is occupied by the cultivator of any such land as is referred to in sub-clause (a) in which any process is carried on to render marketable any such produce aforesaid;
 - (ii) is on, or in the immediate vicinity of such land; and
 - (iii) is required by the cultivator as the dwelling house or store-house or other out-house by reason of his connection with such land.

From the above definition, it can be said that any income derived from any land or Buildings in Bangladesh that are used for agricultural purposes will be considered under the head “Agricultural income”. Besides all these income, as per Section 19(17), 19(19), 26(2) and 26(3) some other sources of income are also considered as income generated under this head:

9.3.1 Gain from the sale of the machinery or plant exclusively used for agricultural purpose – Here such a gain is the excess of sale proceeds over written down value of any machinery or plant exclusively used for agricultural purpose. But it is to be noted here that, such a gain cannot be more than the difference between original costs and written down value of the machinery or plant [Section – 19(17)].

Illustration: Mr. Bisu is the owner of a pump machine which was purchased for Tk. 40,000. Now to acquire an advance technology in the irrigation plant he sold the pump machine for Tk. 42,000. At the time of sales the amount of accumulated depreciation of the pump machine was Tk. 18,000. Agricultural income from the sale proceeds should be:

Cost of the machine	: Tk. 40,000
Accumulated Depreciation (at the time of sale)	: Tk. 18,000
Written down value	: Tk. 22,000
Sale proceeds	: Tk. 42,000
Total gain	: Tk. 20,000
Capital gain [Sale proceeds – Cost price]	: Tk. 2,000
Gain to be considered as agricultural income [Total gain – Capital gain]	: Tk. 18,000

9.3.2 Compensation money received against demolished machinery or plant exclusively used for agricultural purpose – Where any insurance, salvage or compensation moneys are received in any income year in respect of any machinery or plant which having been used by the assessee exclusively for agricultural purpose is discarded, demolished or destroyed and the amount of such moneys exceed the written down value of such machinery or plant, shall be deemed to be the income of the assessee for that income year classifiable under the head “Agricultural income”. It is to be noted here that such compensation money does not exceed the difference between the original cost and the written down value less the scrap value [Section – 19(19)].

Chapter – 9: Income from Agriculture

Illustration: Mr. Tareq had a Tractor which was purchased for Tk. 40,000. Due to an accident, the tractor was destroyed and the insurance company has given a compensation of Tk. 30,000. At the time of destruction accumulated depreciation of the tractor was Tk. 15,000 and the scrap value is Tk. 1,000. Agricultural income from the insurance claim proceeds should be:

Cost of the machine	: Tk. 40,000
Accumulated Depreciation (at the time of sale)	: Tk. 15,000
Written down value	: Tk. 25,000
Compensation received	: Tk. 30,000
Scrap value	: Tk. 1,000
Amount to be considered as agricultural income [Total compensation – (WDV – Scrap value)]	: Tk. 6,000

9.3.3 Income from sale of tea – Agricultural income derived from the sale of tea grown and manufactured by the assessee shall be computed in the prescribed manner [Section – 26(2)]. At present, 60% of the sale proceeds from the sale of tea are considered as agriculture income and rest of the 40% is as income from business and profession [Rule – 31].

SELF REVIEW 9 – 1

Mr. Ali is a farmer. He owns a tractor which was purchased for Tk. 80,000 and its WDV was Tk. 55,000 on 15th August, 2015. He sold this tractor on 15th August for Tk. 63,000. Calculate Mr. Ali's income from this sale.

9.3.4 Other agricultural income by notification – Where the Board, by notification in the official Gazette, so directs, agricultural income from the sale of rubber, tobacco, sugar or any other produce grown and manufactured by the assessee may be computed in the manner prescribed for the purpose [Section – 26(3)]. At present, 60% of the sale proceeds from the sale of tea are considered as agriculture income and rest of the 40% is as income from business and profession [Rule – 32]

From the above discussion, it is clear that agriculture would include horticulture, floriculture, arboriculture, sericulture etc. It would include the raising of grooves, plantations, raising of grass or pastures. It would extend to cultivation of all commodities of food value like sugarcane, coffee, mangoes and other fruits etc. artistic and decorative value like flowers and creepers, housing value like bamboo, timber, fuel value, medicinal and health value. It would also include growing of animals, poultry when it is not done for business purpose. Agriculture income would, however, cover only those incomes which are derived by human effort, not naturally.

9.4 CHARACTERISTICS OF AGRICULTURAL INCOME

From the various provisions of the ITO, 1984, various definitions mentioned in dictionaries and case decisions, the following characteristics are relevant to agricultural income:

- (i) It must derive from any agricultural land situated in Bangladesh. The land may be situated in an urban area or in a rural area. If the land is located outside Bangladesh, any agricultural income derived from such land will not be deemed to be agricultural income. In the case of a Resident assessee, such income will be included in his total world income under the head “Foreign income” and would be liable to tax.
- (ii) It must come from fundamental agricultural work like field cultivation or cultivation of the ground, in the sense of tilling of the land, sowing of the seeds, planting and similar basic and subsequent operations on the land.

- (iii) Marketing of the agricultural products should be through ordinary procedure. The produce raised from the land may not have a market in its native form. It may become necessary to perform a process on the produce to make it marketable or saleable. The gain in the value of the produce by such process is also classified as income from agriculture.
- (iv) Income may come from any building situated in the agricultural land or adjacent vacant agricultural land;
- (v) Income may come from gain on sale or discarded value of machineries or plant used for agricultural purpose;
- (vi) Some income may partially be considered as agricultural income; e.g. sale of tea, rubber, tobacco, sugar etc.

9.5 CLASSIFICATION OF AGRICULTURAL INCOME

Considering the provisions of the Income Tax Ordinance, 1984, agricultural income can be classified into following three categories:

1. Fully Agricultural Income,
2. Partly Agricultural Income; and
3. Other Agricultural Income

9.5.1 Fully Agricultural Income

According the provisions under Section 2(1), 26(1), 19(17) and 19(19) of the ITO, 1984, the following incomes are fully considered as agricultural income:

- (i) Any income derived from any land and building situated on the land in Bangladesh used for agricultural purposes [Section 2(1)];
- (ii) Gain from the sale of the machinery or plant exclusively used for agricultural purpose [Section 19(17)];
- (iii) Compensation money received against demolished machinery or plant exclusively used for agricultural purpose [Section 19(19)].

9.5.2 Partly Agricultural Income:

According the provisions under Section 26(2) and 26(3) of the ITO, 1984, the following incomes are partly considered as agricultural income:

- (i) **Income derived from the sale of tea:** According to Section 26(2) of the ITO, 1984 and Rule 31 of the ITR, 1984, income derived from the sale of tea grown and manufactured by the seller in Bangladesh shall be computed as follows:
 - ⊕ 40% of such income was derived from business, and
 - ⊕ 60% of such income was derived from agriculture.

Provided that in computing such income from business an allowance shall be made in respect of the cost of planting bushes in replacement of bushes that have died or become permanently useless in an area already planted, unless such area has previously been abandoned. Provided further that, in computing such income an allowance shall be made in respect of the expenditure incurred in the income year by the assessee in connection with the development of the new areas for bringing them under tea cultivation.

- (ii) **Income derived from the sale of rubber:** According to Section 26(3) of the ITO, 1984 and Rule 32 of the ITR, 1984, income derived from the sale of rubber grown and manufactured by the seller in Bangladesh shall be computed as follows:

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- ✦ 40% of such income was derived from business, and
- ✦ 60% of such income was derived from agriculture.

Provided that in computing such income an allowance shall be made in respect of the expenditure incurred in the income year by the assessee in connection with the development of the new areas for bringing them under rubber cultivation.

(iii) Income from sugar mill and tobacco:

Unlike income from tea garden and rubber garden, income from sugar mill and tobacco is also considered partly agricultural income if in both the cases the farmer and the manufacturer are the same person. In such cases, agricultural and business activities are interrelated and cannot be separated easily and conveniently. Although like income from tea garden and income from rubber garden nothing has been mentioned in the income tax rule regarding computation of income from sugar mill and tobacco, it is quite logical to consider the same rule for these sources. Provided that such rule is applicable only when sugar cane and tobacco processed in the mill was also produced in the land owned by the assessee. But, if tobacco and sugarcane is sold to other manufacturers than the full amount of sale proceeds will be considered as agricultural income.

SUMMARY OF PARTLY AGRICULTURAL INCOME:

	AI*	BoP*	Reference
Income from Tea garden	60%	40%	Sec 26(2), Rule 31
Income from Rubber garden	60%	40%	Sec 26(3), Rule 32
Income from Tobacco/Sugar/ Other similar products Industry:			
Further processing is done by the assessee	60%	40%	Sec 26(3), Rule 32
No further processing and sold to others	100%	0%	Sec 26(3), Rule 32

*AI: Agricultural Income; BoP: Income from Business or Profession

9.5.3 Other Agricultural Income:

In addition to the above sources of incomes, the followings are also "Agricultural Income":

1. Income from cattle rearing
2. Income from sale of palm juice and Date juice
3. Income from sale of seeds and grass, if grown by human effort
4. Income from agricultural cooperative society which was organized for farming and cattle rearing
5. Income from land or assets used for processing the agricultural commodities to make them marketable
6. Income from land leased for agricultural purposes
7. Income from any system of sharing of crop generally known as adhi, barga or bhag.
8. Income from sale of herbal or medicinal plants
9. Income from cultivation of flower and fruits
10. Income from sale of honey if produced in agricultural land using special technologies like special box for Honey-comb.
11. Income from dairy farm, provided (a) assessee is the owner of the cattle (b) cattle are reared in cattle rearing field (c) Milk is processed by the assessee
12. Income from poultry farm if they are reared in agricultural land

9.6 SOME TYPICAL NON-AGRICULTURAL INCOME

1. Income from ferry ghat, mooring terminal and fishing
2. Income from sale of produce that grow up in the agricultural land without agricultural works e.g. forest trees, wild grass, fruit and flowers grown spontaneously and without human effort
3. Income from salt production by flooding the land with sea water and then extracting salt therefrom
4. Income from cutting and selling of timber on contract
5. Interest on arrear of rent for agricultural land
6. Income from letting out vacant land not used for agricultural purpose
7. Royalty / ground rent against lease of land for mining, potteries, quarries etc.
8. Sale of soil used for brick field
9. Income from sale of water used for irrigation
10. Income from sale of forest trees, flowers, bamboo, wild grass, reeds or fruits produced naturally without any agricultural work
11. Sale of stones from quarries
12. Income from salary for working as an agricultural supervisor / manager
13. Income from sale of crops which has been purchased from others for resale
14. Income from dairy farm established for business purpose
15. Income from poultry farm established separately for business purpose
16. Income from fisheries
17. Fish hunting, ship anchor etc.
18. Income derived from butter and cheese making
19. Income received as commission for working as middleman in agro products
20. Remuneration received by managing agent at a fixed percentage of net profit from a company having agricultural income.
21. Interest received by an assessee against loan in the form of agricultural produce
22. Dividend paid by a company out of its agricultural income

9.7 ADMISSIBLE EXPENSES (SECTION – 27)

As per Section 27 of the ITO, 1984, in computing the taxable income under the head 'Agricultural Income', some expenses are allowed to be deducted from the revenues under this head. Those allowable allowances and deductions are as follows:

- 9.7.1 **Land Development Tax:** Any land development tax or rent paid in respect of the land used for agricultural purposes [Section 27(1)(a)].
- 9.7.2 **Local Tax:** Any tax, local rate or cess paid in respect of the agricultural land is subject to allowable deduction, provided that no such deduction is allowed if the tax is charged for any income arising or accruing from agricultural operations [Section – 27(1)(b)].
- 9.7.3 **Production Costs:** according to Section – 27(1)(c), allowable deduction as production costs includes: (a) For cultivating the land or raising livestock thereon; (b) For performing any process ordinarily employed by a cultivator to render marketable the produce of the land; (c) For transporting the produce of the land or the livestock raised thereon to the market; (d) For maintaining agricultural implements and machinery in good repair and for providing upkeep of cattle for the purpose of cultivation, processing or transportation as aforesaid;

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Where books of accounts in respect of such expenses are not maintained properly, production costs will not be the amount claimed by the assessee rather it will be **60% of the market value of the produce** [Section – 27(1)(c)(ii)]. Moreover, according to Section 27(1)(c)(iii) no deduction on account of cost of production shall be admissible under this clause if the agricultural income is derived by the owner of the land from the share of the produce raised through any system of sharing of crop generally known as adhi, barga or bhag.

Illustration: Mr. Ovi's agricultural incomes are from – Sale of rice (200 mounds @ Tk. 600 per mounds), Sale of Rabi crops Tk. 55,000, Share from Barga Tk. 20,000. Mr. Ovi claimed the following expenses as allowable expenses against these incomes:

Expenses	Rice	Rabi crops	Barga
Cost of seeds	25,000	8,000	2,000
Cost of fertilizer	12,000	3,000	-
Cultivation costs	18,000	1,500	-
Repair expenses	10,500	-	-
Total	65,500	12,500	2,000

Mr. Ovi failed to provide proper books of accounts for Rabi crops relating to such expenses. Calculate income from agriculture for Mr. Ovi.

Expenses	Rice	Rabi crops	Barga
Sales revenue	120,000	55,000	-
Share from Barga			20,000
Less: Production costs	65,500	33,000*	-**
Agricultural income	54,500	22,000	20,000

*60% of 55,000 ** No deduction is allowed in case of Barga, adhi or bhag

- 9.7.4 Insurance Premium:** Any sum paid as premium in order to effect any insurance against loss of, or damage to, the land or any crop to be raised from, or cattle to be reared on, the land [Section – 27(1)(d)].
- 9.7.5 Maintenance Cost for Irrigation Plant:** Any sum paid in respect of the maintenance of any irrigation or protective work or other capital assets; and such maintenance includes current repairs and, in the case of protective dykes and embankments, all such work as may be necessary from year to year for repairing any damage or destruction caused by flood or other natural causes [Section – 27(1)(e)].
- 9.7.6 Depreciation:** Depreciation expense relating to all the assets and facilities from which agricultural income is derived can be considered as allowable deduction [Section – 27(1)(f)]. Here the rate of depreciation is the rates provided in the Third Schedule of the Income Tax Ordinance (ITO), 1984.

Rate of depreciation: [As per the Third Schedule]

Assets	Rate
1. Pucca building	10%
2. Kutchra and Pucca Building	15%
3. Kucha building	20%
4. Temporary structure	N/A*
5. Pucca walls	5%
6. Fencing of substantial material	10%

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Assets	Rate
7. Tube-well	15%
8. Tanks	10%
9. Pucca irrigation channel	15%
10. Kucha irrigation channel	20%
11. Kucha irrigation wells	33.33%
12. Pucca irrigation wells	5%
13. Bullock drawn iron implements	15%
14. Bullock drawn wooden or leather implements and small other hand/implements	25%
15. Weighing machine	10%
16. Tractors and oil engines and thin implements	15%
17. Power pumping machinery	20%
18. Factor made cart of iron material with rubber tyre	15%
19. Country cart	20%
20. Steam engine	10%
21. Workshop tools	15%
22. General (machinery, implements, plants and other assets) not provided above	10%

* No rate is fixed. Renewal will be allowed as revenue expenditure.

- 9.7.7 Interest on Mortgage:** Where the land is subject to a mortgage or other capital charge for the purposes of reclamation or improvement, the amount of any interest paid in respect of such mortgage or charge [Section – 27(1)(g)].
- 9.7.8 Interest on Borrowed Capital:** Where the land has been acquired, reclaimed or improved by the use of borrowed capital, the amount of any interest paid in respect of such capital [Section – 27(1)(h)].
- 9.7.9 Losses from the Sale of Demolished Machineries:** Where any machinery or plant which has been used by the assessee exclusively for agricultural purposes has been discarded, demolished or destroyed in the income year, the amount of losses from such destruction is allowable expense according to Section – 27(1)(i). But maximum allowable limit of such losses are:
- (i) *When no insurance or compensation money has been received:*
Maximum limit = (Written down value – Scrap value)
 - (ii) *When insurance or compensation money received:*
Maximum limit = {(Written down value – Scrap value) – amount of insurance or compensation money received}
- 9.7.10 Losses on Sale or Exchange of Machineries:** Where any machinery or plant which has been used by the assessee exclusively for agricultural purposes has been sold or transferred by way of exchange in the income year, the amount actually written off on that account in the books of accounts of the assessee is considered as allowable expenditure according to Section – 27(1)(j). But maximum limit of such amount is the difference between the written down value of the machinery or plant and the amount for which it has been actually sold or transferred.
- 9.7.11 Other Expenses:** Any other expenditure, not being in the nature of capital expenditure or personal expenditure, laid out wholly and exclusively for the purpose of deriving agricultural income from the land is allowable according to Section – 27(1)(k).

SELF REVIEW 9 – 2

Mr. Ali is a farmer. He sold 100 maunds of rice @ 600 per maund. His production expenses are, cost of seeds and fertilizer Tk. 15,000; Labor costs Tk. 18,000; Union Parison tax Tk. 2,500; Transportation costs Tk. 3,000 and costs for ordinary processing Tk. 4,000. Calculate production costs for Mr. Ali, considering – (a) He did not maintain proper books of accounts relating to production costs (b) He maintain all books of accounts relating to production costs

9.8 SET OFF AND CARRY FORWARD OF LOSSES OF AGRICULTURAL INCOME

Net agricultural income is derived from deducting the admissible expenses from the total gross agricultural income. But in any assessment year, if the amount of allowable expenses is greater than the amount of gross agricultural income then it will be considered as net loss. According to Section 37 of the ITO, 1984, such loss can be set off against his income from any other head excluding "Capital Gain". According to Section 41 of the ITO, 1984, where, for any assessment year, such loss has not been so set off, it shall be carried forward to the next following assessment year, and

- (a) it shall be set off against agricultural income, if any, of the assessee assessable for that assessment year; and
- (b) if the loss cannot be wholly so set off the amount not so set off shall be carried forward to the next assessment year and so on for not more than six successive assessment years.

9.9 NON – ASSESSABLE AGRICULTURAL INCOME:

According to the various provisions of the ITO, 1984, the following agricultural incomes are non-assessable subject to some conditions:

1. Agricultural income not exceeding Tk. 200,000 is non-assessable for an individual assessee, where only source of his income is agriculture [6th Schedule, Part A, Para 29].

Explanation: Total income of Mr. Hasan in the income year 2015-16 is Tk. 650,000 and his only source of income is agriculture. In this case up to Tk. 200,000 is non-assessable and he is also eligible to enjoy the normal non-assessable limit of Tk. 250,000 (in case of woman, elderly citizens of more than 65 years old Tk. 300,000, for disable persons Tk. 375,000 and for gazette wounded freedom fighters Tk. 425,000) and his taxable total income will be Tk. 200,000 (650,000 – 200,000 – 250,000). In case of having income from other heads such exemption of up to Tk. 200,000 will not be applicable.

2. Any income thus including agricultural income of an indigenous hillman of any of the hill districts of Rangamati, Bandarban and Khagrachari, which has been derived solely from economic activities undertaken within the said hill districts [Sixth Schedule, Part A, Para 27].
3. Subject to the conditions made hereunder any income from poultry for the period from 1.07.11 to 30.06.15 [Sixth Schedule, Part A, Para 42]-
 - (a) if such income exceeds Tk. 1,50,000/- an amount not less than 10% of the said income shall be invested in the purchase of Government bond or securities within six month from the end of the income year;
 - (b) the person shall file return in accordance with the provisions of Section 75(2)(c) of the ITO, 1984; and
 - (c) no such income shall be transferred by way of gift or loan within five years from the end of the income year.

9.9.1 Reduced Tax Rate for certain Agricultural Incomes [SRO No. 199-AIN/IT/2015 dated 01/07/2015]:

Any income from production of pelleted poultry feed, production of pelleted feed for fish, shrimp & cattle, production of seeds, marketing of locally produced seeds, cattle farming, dairy farming, frog farming, horticulture, Silk tree plantation, Bee keeping, Silk worm firming, mushroom farming, floriculture is taxable at a reduced tax rate as follows:

Income	Tax Rate
On first Tk. 10 lac	3%
On next Tk. 20 lac	10%
For the rest of the amount	15%

9.9.2 Reduced Tax Rate for poultry firm [SRO No. 254-AIN/IT/2015 dated 16/08/2015]:
Income from poultry firm will be taxed at following rate:

Income	Tax Rate
On first Tk. 20 lac	nil
On next Tk. 10 lac	5%
For the rest of the amount	10%

9.9.3 Reduced tax rate on income from Poultry, Shrimp & fish hatchery, fisheries Firm [SRO No. 255-AIN/IT/2015 dated 16/08/2015]:

Income	Tax Rate
On first Tk. 10 lac	nil
On next Tk. 10 lac	5%
For the rest of the amount	10%

SPECIMEN FORM OF COMPUTATION OF “INCOME FROM AGRICULTURE”

Assessee:

Income year: 2016 – 2017; Assessment year: 2017 – 2018

Computation of total income

Income from Agriculture (Section – 26 & 27):	Tk.	Tk.
Sale of crops	XX	
Income from any land or building used for agricultural purposes	XX	
Income from granting a right [‘Borga’, “adhi” or “bhag”]	XX	
Income from tea garden or rubber garden [60%]	XX	
Revenue profit by sale of discarded or demolished agri. machines	XX	
Other income relating to agri. [sale of palm juice, rearing of cattle]	XX	XX
Less: Admissible expenses –		
(a) Land development tax	XX	
(b) Any other taxes [local taxes, cess etc]	XX	
(c) Production costs	XX	
❖ Cost for cultivating the land or raising live-stock		
❖ Ordinary processing costs to make crop marketable		
❖ Transportation cost of crops or livestock to market		
❖ Maintenance cost of agricultural equipments & up keeping of cattle for cultivation*		

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(d) Insurance Premium	XX	
(e) Repair and Maintenance of irrigation plant	XX	
(f) Depreciation	XX	
(g) Interest on Mortgage Loan	XX	
(h) Interest on Borrowed Capital	XX	
(i) Losses due to sale of cultivable land	XX	
(j) losses due to discard or demolish of agri. machineries	XX	
(k) Other revenue expenses	XX	XX
Total Income**		<u>XX</u>

* If proper books of accounts related to production costs are not maintained, an expenditure equivalent to 60% of sale proceeds of the produce is allowed as admissible expense

** When agriculture is the only source of income, assessee is allowed to get an exemption of a maximum amount of Tk. 200,000 [Sixth Schedule, Part A, Para 29].

Illustration 9 – 1:

Agricultural income of Mr. Zahir for the income year ended 30th June, 2017 are Sale of paddy 150 maunds @ Tk. 600 per maund; sale of jute 100 maunds @ Tk. 800 per maund; sale of rabi crops Tk. 65,000; sale of tea Tk. 70,000; income from borga Tk. 20,000; and lease of agricultural land Tk. 30,000. Expenses relating to all these income are cost of seeds and fertilizer Tk. 40,000; cultivation costs Tk. 65,000; transportation costs Tk. 15,000; ordinary processing costs Tk. 25,000; land revenue paid Tk. 7,000; union parisad tax Tk. 4,400; crop insurance premium Tk. 5,600; allowable depreciation Tk. 3,000; and interest on borrowed fund Tk. 2,800. Compute taxable income for Mr. Zahir considering (a) he kept proper books of accounts (b) he kept necessary books of accounts.

Solution 9 – 1:

(a) When proper books of accounts were not maintained:

Mr. Zahir			
Income year: 2016 – 2017; Assessment year: 2017 – 2018			
Calculation of Total Income			
Income from Agriculture (Section – 26 & 27):	Tk.	Tk.	Tk.
Income from sale of paddy (150 × 600)	90,000		
Income from sale of jute (100 × 800)	80,000		
Income from sale of rabi crops	65,000		
Sale of Tea (70,000 × 60%)	42,000		
Income from Borga	20,000		
Lease of Agricultural land	30,000	327,000	
Less: Admissible expenses:			
1. Production costs (235,000 × 60%)	141,000		
2. Land revenue paid	7,000		
3. Union parisad tax	4,400		
4. Crop insurance premium	5,600		
5. Allowable depreciation	3,000		
6. Interest on borrowed fund	2,800	163,800	163,200
Income from Business and Profession:			
Sale of Tea (70,000 × 40%)			28,000
Total			<u>191,200</u>

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Notes: (1) Production costs: 60% of sales proceeds; i.e., 60% of (Income from sale of Paddy Tk. 90,000 + Income from sale of Jute Tk. 80,000 + Income from sale of rabi crops Tk. 65,000 = Total sales proceeds Tk. 235,000. (2) Production cost is not allowable for partly agricultural income.

(b) When proper books of accounts were maintained:

Mr. Zahir

Income year: 2016-2017; Assessment year: 2017-2018

Calculation of Total Income

Income from Agriculture (Sec – 26 & 27):	Tk.	Tk.	Tk.	Tk.
Income from sale of paddy (150 × 600)		90,000		
Income from sale of jute (100 × 800)		80,000		
Income from sale of rabi crops		65,000		
Sale of Tea (70,000 × 60%)		42,000		
Income from Borga		20,000		
Lease of Agricultural land		30,000	327,000	
Less: Admissible expenses:				
1. Production costs –				
Cost of seeds and fertilizer	40,000			
Cultivation costs	65,000			
Transportation costs	15,000			
Ordinary processing costs	25,000	145,000		
2. Land revenue paid		7,000		
3. Union parisad tax		4,400		
4. Crop insurance premium		5,600		
5. Allowable depreciation		3,000		
6. Interest on borrowed fund		2,800	167,800	159,200
Income from Business and Profession:				
Sale of Tea (70,000 × 40%)				28,000
Total				187,200

Illustration 9 – 2:

Mr. Rahman is a farmer whose only income is from agriculture. Compute taxable income for Mr. Rahman for the year ended on 30th June, 2017 considering: Sale of rice 150 maunds @ Tk. 710 per maund; Sale of potato 300 maunds @ Tk. 150 per maund; Income from Borga Tk. 40,000; lease of agricultural land Tk. 300,000. Expenses relating to all these income are: Cost of seeds and fertilizer Tk. 36,500; labor charge Tk. 40,000; maintenance costs of agricultural equipments Tk. 4,000; union parisad tax Tk. 5,800; crop insurance premium Tk. 8,200; depreciation on tractor @ 20% Tk. 14,000. Mr. Rahman has borrowed fund from Krisi Unnayan Bank by Tk. 40,000 at an annual interest rate of 15% on 15th October 2016. Allowable depreciation for tractor as per the 3rd Schedule of the ITO, 1984 is at the rate of 15%. Cost of seeds and fertilizer includes Tk. 1,500 spent against Borga. He maintains books of accounts properly.

Solution 9 – 2:

Mr. Rahman

Income year: 2016 – 2017; Assessment year: 2017 – 2018

Calculation of Total Income

Income from Agriculture (Section – 26 & 27):	Tk.	Tk.	Tk.
Income from sale of rice (150 × 710)		106,500	

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Income from sale of potato (300 × 150)	45,000	
Income from barga	40,000	
Income from lease of agricultural land	300,000	491,500
Less: Admissible expenses:		
1. Production costs (note – 4)	79,000	
2. Union parisad tax	5,800	
3. Crop insurance premium	8,200	
4. Allowable depreciation (note – 1)	10,500	
5. Interest on borrowed fund (note – 2)	4,250	107,750
Total		383,750
Less: exemption (up to 200,000)		200,000
Total		183,750

Notes: (1) Allowable depreciation = $(14,000 \div 0.20) \times 0.15 = 10,500$ (2) Interest on borrowed fund = $(40,000 \times 15\%) \times 8.5 \div 12 = 4,250$ (3) No production costs are allowed for share from barga. So cost of seeds and fertilizer is allowable up to $(36,500 - 1,500)$ or 35,000. (4) Production costs: Cost of seeds and fertilizer Tk. 35,000 + Labor charge Tk. 40,000 + Maintenance costs of agricultural equipment Tk. 4,000 = Total 79,000. (5) As agriculture is the only source of income for Mr. Rahman, he is allowed to get Tk. 200,000 exemption in assessing his income.

Illustration 9 – 3:

Income of Mr. Hossain for the year ended 30th June, 2017 includes, sale of jute 300 maunds @ Tk. 700 per maund; sale of rice 225 maunds @ Tk. 550 per maund; income from lease of agricultural land Tk. 48,000; income from ferry ghat Tk. 27,000; income from tea garden Tk. 80,000 and income from sale of honey Tk. 20,000. Expenses relating to all these income are: Land revenue paid Tk. 9,000; Union parisad tax Tk. 6,800; Crop insurance premium Tk. 11,500; Allowable depreciation Tk. 8,000; Interest on mortgage loan Tk. 4,750 and Maintenance costs for irrigation plant Tk. 7,200. Mr. Hossain had a weighing machine which was purchased at Tk. 18,000. It has become obsolete and has been discarded at Tk. 9,500. At the time of sales the written down value of the machine was Tk. 13,000. Moreover, he has also sold a tractor at a price of Tk. 42,000 (cost Tk. 40,000, Accumulated depreciation Tk. 3,000). In addition to this he had a pump machine which was destroyed by fire and the Insurance compensation amount Tk. 10,000 (cost 20,000; Acc. Dep. Tk. 12,000, Scrap Tk. 2,000). When asking for proper books of accounts Mr. Hossain failed to provide any supporting documents for production costs, although he claimed Tk. 210,000 as production costs. Compute taxable income for Mr. Hossain.

Solution 9 – 3:

Mr. Hossain

Income year: 2016 – 2017; Assessment year: 2017 – 2018

Calculation of Total Income

Income from Agriculture (Section – 26 & 27):	Tk.	Tk.	Tk.
Income from sale of Jute (300 × 700)	210,000		
Income from sale of Rice (225 × 550)	123,750		
Income from lease of agricultural land	48,000		
Income from tea garden (80,000 × 60%)	48,000		
Income from sale of honey	20,000		
Gain on sale of tractor	3,000		
Gain on insurance compensation	4,000	456,750	

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Less: Admissible expenses:			
1. Production costs (note – 1)	200,250		
2. Land revenue paid	9,000		
3. Union parisad tax	6,800		
4. Crop insurance premium	11,500		
5. Allowable depreciation	8,000		
6. Interest on mortgage loan	4,750		
7. Maintenance cost of irrigation plant	7,200		
8. Losses due to discard of machine (note – 2)	3,500	251,000	205,750
Income from Business or profession (Section – 28):			
Income from tea garden (80,000 × 40%)			32,000
Capital gain (Section – 31):			
Capital gain from tractor			2,000
Income from other sources (Section – 33):			
Income from ferry ghat			27,000
Total income			266,750

Notes: (1) Calculation of production costs: 60% of (Income from sale of Jute (300 X 700) Tk. 210,000 + Income from sale of Rice (225 X 550) Tk. 123,750); i.e., 60% of Total sales proceeds Tk. 333,750 = Tk. 200,250 (2) Losses due to discard of weighing machinery: WDV of the machine Tk. 13,000 less Disposable price Tk. 9,500 = Tk. 3,500 (3) Gain on sale of Tractor: Total gain = Sales price – WDV = Tk. 42,000 – Tk. 37,000 = Tk. 5,000; Capital gain = Sales price – cost = Tk. 2,000 (to be recorded under the head capital gain); Revenue gain = Total gain – capital gain = Tk. 3,000 (to be recorded under the head Agricultural income) (4) Gain/loss on insurance compensation = [Compensation – (WDV - Scrap)] = [Tk. 10,000 – (Tk. 8,000 – Tk. 2,000)] = Tk. 4,000 (gain).

Illustration 9 – 4:

Compute taxable income of Mr. Masum from the given particulars related to the year ended 30th June, 2017: Sale of Rice 205 maunds @ Tk. 675 per maund; Income from lease of agricultural land Tk. 78,000; Income from salt production Tk. 15,000; Income from rubber garden Tk. 92,000; Sale of forest tree Tk. 20,000; and income from sale of fish from pond Tk. 35,000. He didn't maintain the books of accounts properly. Expenses relating to all these income are: Production costs Tk. 85,000; Land revenue paid Tk. 8,000; Interest on loan Tk. 2,300; Union parisad tax Tk. 4,275; Purchase of tractor Tk. 70,000; Repair and Maintenance cost of tractor Tk. 3,000; Maintenance of a kutch irrigation plant Tk. 12,000 and donation to co-operative society Tk. 6,000.

Solution 9 – 4:

Mr. Masum

Income year: 2016 – 2017; Assessment year: 2017 – 2018

Calculation of Total Income

Income from Agriculture (Section – 26 & 27):	Tk.	Tk.	Tk.
Income from sale of Rice (205 × 675)	138,375		
Income from lease of agricultural land	78,000		
Income from rubber garden (92,000 × 60%)	55,200	271,575	
Less: Admissible expenses:			
1. Production costs (138,375 × 60%)	83,025		
2. Land revenue paid	8,000		
3. Interest on loan	2,300		
4. Union parisad tax	4,275		
5. Maintenance of kutch irrigation plant	12,000	109,600	161,975

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Income from Business or Profession (Section – 28):		
Income from rubber garden (92,000 × 40%)		36,800
Income from other sources (Section – 33):		
Income from salt production	15,000	
Income from sale of forest tree	20,000	
Income from sale of fish from pond	35,000	70,000
Total		<u>268,775</u>

Illustration 9 – 5:

From the given particulars of Mr. Adib Ahsan, compute taxable income for the income year 2016 – 2017: Sale of Rice 250 maunds @ Tk. 600 per maund; Sale of Jute 100 maunds @ Tk. 400 per maund; Sale of Rabi Crops Tk. 50,000; Yearly lease of agricultural land Tk. 20,000; Sale of forest timber and bamboo Tk. 6,000; Income from Tea garden Tk. 30,000; Income from Rubber garden Tk. 40,000; Income from Tobacco industry Tk. 30,000; Income from Sugar industry Tk. 50,000; Income from cattle rearing Tk. 3,000; Income from sale of Palm and Date Juice Tk. 6,000 and income from sale of Honey Tk. 5,000. Expenses for cultivation are as follows:

Cultivation Expenses	Rice and Rabi crops	Jute
Cost of seeds and fertilizer	Tk. 25,000	Tk. 7,000
Labor charge	5,000	2,000
Cost of pump machine hire	3,000	1,000
Repair expense of agri equipments	500	-
Transportation cost	2,000	500

When the income tax authority asked for books of accounts regarding cultivation expenses, Mr. Adib failed to provide proper records for Jute. Other related expenses for the year were: Union parishad tax Tk. 2,000; land revenue Tk. 1,000; crop insurance premium Tk. 2,500; Allowable depreciation Tk. 5,000; and maintenance cost of irrigation plant Tk. 4,000. He had a pump machine which was purchased at Tk. 25,000. It has become obsolete and has been discarded at Tk. 12,000. The written down value after charging depreciation on the basis of prescribed rate at the ITO, 1984 estimated at Tk. 10,000. He has taken agricultural loan of Tk. 50,000 @ 8% interest per annum.

Solution 9 – 5:

Mr. Adib Ahsan

Income year: 2016 – 2017; Assessment year: 2017 – 2018

Calculation of Total Income

Income from Agriculture (Section – 26 & 27):	Tk.	Tk.	Tk.
Sale of rice (250 × 600)	150,000		
Sale of Jute (100 × 400)	40,000		
Sale of rabi crops	50,000		
Yearly lease of agricultural land	20,000		
Income from tea garden (30,000 × 60%)	18,000		
Income from rubber garden (40,000 × 60%)	24,000		
Income from Tobacco industry (30,000 × 60%)	18,000		
Income from Sugar industry (50,000 × 60%)	30,000		
Income from cattle rearing	3,000		
Income from sale of Palm and Date juice	6,000		
Income from sale of honey	5,000		
Gain from sale of obsolete equipment (note – 2)	2,000	366,000	

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Less : admissible expenses			
1. Production expenses (note – 1)	59,500		
2. Union parisad Tax	2,000		
3. Land Revenue	1,000		
4. Crop insurance premium	2,500		
5. Allowable Depreciation	5,000		
6. Maintenance cost of irrigating plant	4,000		
7. Interest from borrowed fund (50,000 × 8%)	4,000	78,000	288,000
Income from Business or profession:			
Income from tea garden (30,000 × 40%)		12,000	
Income from rubber garden (40,000 × 40%)		16,000	
Income from Tobacco industry (30,000 × 40%)		12,000	
Income from Sugar industry (50,000 × 40%)		20,000	60,000
Income from Other Sources			
Sale of forest timber and bamboo			6,000
Total Income			<u>354,000</u>

Notes: (1) Production costs for rice & Rabi Crops: Cost of seeds & Fertilizer Tk. 25,000 + Labor charge Tk. 5,000 + Cost of pump machine hire Tk. 3,000 + Repair expenses of agricultural equip. Tk. 500 + transportation cost Tk. 2,000 = Total Tk. 35,500 and Production Costs for jute (40,000 × 60%) = Tk. 24,000. Total production costs = (35,500 + 24,000) = Tk. 59,500. (2) Since accounts have not been maintained properly regarding jute cultivation, 60% of the sale proceeds have been considered as allowable production cost for jute. (3) Gain from sale of obsolete equipment = sales – WDV = 12,000 – 10,000 = Tk. 2,000.

Illustration 9 – 6:

Compute taxable income and tax liability of Mr. Jamir Ali, a 71 years old farmer of Bhola District, from the following particulars related to the income year ended on 30.06.17; assuming that his only source of income is agriculture and are from sale of paddy 200 maunds @ Tk. 400 per maund; sale of jute 150 maunds @ Tk. 600 per maund; sale of rabi crops Tk. 60,000; income from agricultural cooperative society which was organized for farming Tk. 25,000; income from lease of agricultural land Tk. 200,000; income from Barga Tk. 225,000; income from sale of herbal or medicinal plants Tk. 30,000; income from lease of storehouse used for storing crops Tk. 20,000; income from sale of tobacco to BATC Tk. 20,000; income from sale of sugarcane to Government Sugar mill Tk. 35,000.

Mr. Jamir Ali had a pump machine which was purchased for Tk. 40,000. To acquire an advance technology in the irrigation plant he has sold the pump machine for Tk. 40,000. At the time of sale the amount of accumulated depreciation of the pump machine was Tk. 18,000. Moreover, he also had a weighing machine which was purchased at Tk. 18,000. It has become obsolete due to a fire and the Insurance Company has given a compensation of Tk. 8,500. At the time of fire the written down value of the machine was Tk. 13,000 and after the fire the scrap value was amounted to Tk. 1,000. He didn't maintain the books of accounts properly but expenses claimed by him includes: production costs Tk. 200,000; land revenue paid Tk. 8,000; interest on loan Tk. 2,500; union parisad tax Tk. 4,000; purchase of tractor Tk. 70,000; maintenance of agricultural equipments and maintenance of the irrigation plant Tk. 12,000. In addition to it, during the year Mr. Jamir Ali also incurred different investments and expenses, which includes: Family expenses Tk. 50,000; life Insurance premium (policy value Tk. 200,000) Tk. 25,000; purchase of unlisted company's share Tk. 25,000; donation to president's relief fund Tk. 20,000; donation to a local club Tk. 6,000; donation to Government Zakat fund Tk. 30,000; and purchase of gold Tk. 27,000.

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Solution 9 – 6: **Mr. Jamir Ali**

Income year: 2016 – 2017; Assessment year: 2017 – 2018

Calculation of Total Income

Income from Agriculture (Section – 24):	Tk.	Tk.	Tk.
Income from sale of Paddy (200 × 400)	80,000		
Income from sale of Jute (150 × 600)	90,000		
Sale of Rabi Crops	60,000		
Income from Agricultural Co-operative Society	25,000		
Income from lease of agricultural land	200,000		
Income from Barga	225,000		
Income from sale of herbal or medicinal plants	30,000		
Income from lease of storehouse used for storing crops	20,000		
Income from sale of tobacco to BATC	20,000		
Income from sale of sugarcane to Government Sugar mill	35,000		
Gain on sale of pump machine (Note – 1)	18,000	803,000	
Less: Admissible expenses:			
1. Production costs (Note - 2)	189,000		
2. Land revenue paid	8,000		
3. Interest on loan	2,500		
4. Union parisad tax	4,000		
5. Maintenance of irrigation plant	12,000		
6. Loss from fire of weighing machine (Note – 3)	3,500	219,000	584,000
Less: Exemption – up to Tk. 200,000 (Note - 4)			200,000
Total			<u>384,000</u>

Calculation of investment allowance

Insurance premium (own)	Tk. 25,000	
Maximum limit: 2,00,000 × 10%	20,000	Tk. 20,000
Donation to president's relief fund		20,000
Donation to Government Zakat fund		30,000
Actual Investment		<u>70,000</u>
Maximum limit of investment:	1,50,00,000	
Or, 25% of Total income = 25% of 3,84,000	96,000	
	Lower one	<u>96,000</u>
So, Investment allowance allowed for tax credit		<u>70,000</u>
Tax credit / rebate @ 15% on allowable investment: (70,000 × 15%)		<u>10,500</u>

Calculation of Tax liability

	Rate	Tk.
On the first Tk. 300,000	0%	Nil
On the next <u>84,000</u>	10%	<u>8,400</u>
Total <u>384,000</u>		<u>8,400</u>
Less: investment tax credit		10,500
Net tax liability		<u>(2,100)</u>

As the calculated tax liability is less than the minimum tax liability amount, the net tax liability of Mr. Jamir Ali will be Tk. 3,000 for the assessment year 2017-18.

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Notes: (1) Calculation of gain on sale of pump machine: Cost of the machine: Tk. 40,000; Accumulated Depreciation (at the time of sale): Tk. 18,000; Written down value: Tk. 22,000; Sale proceeds: Tk. 40,000; So, Total gain [Sale proceeds – WDV]: Tk. 18,000; Capital gain [Sale proceeds – Cost price]: Nil and Gain to be considered as agricultural income [Total gain – Capital gain]: Tk. 18,000. (2) Allowable production cost: 60% of total sale proceeds from produced goods, i.e., 60% of (Sale of paddy Tk. 80,000 + Sale of jute Tk. 90,000 + Sale of rabi crops Tk. 60,000 + Sale of herbal or medicinal plants Tk. 30,000 + Sale of tobacco Tk. 20,000 + Sale of sugarcane Tk. 35,000) = 60% of Tk. 315,000 = Tk. 189,000. (3) Losses due to discard of weighing machinery: WDV of the machine Tk. 13,000 Less: Scrap value 1,000 less: Compensation received Tk. 8,500 = Loss from fire of weighing machine Tk. 3,500. (4) Since he has only agricultural income, upto Tk. 200,000 is exempted from tax. (5) Since further processing was absent in case of tobacco and sugarcane, the entire amounts have been considered as agricultural income. (6) As the assessee is more than 65 years old, the minimum non-assessable limit is Tk. 300,000 for the assessment year 2017-18.

Illustration 9 – 7:

Compute taxable income and tax liability of Mr. Taleb Ali, from for the income year ended on 30th June, 2017 considering his income from the following sources:

Sale of Paddy 1,000 maunds @ Tk. 400 per maund; sale of Jute 500 maunds @ Tk. 600 per maund sale of Rabi Crops Tk. 160,000; income from lease of agricultural land; Tk. 100,000; income from Fisheries Tk. 125,000; income from mushroom farming Tk. 130,000; income from Sale of tea Tk. 200,000; and income from Dairy farming Tk. 120,000.

He didn't maintain the books of accounts properly but claimed expenses for production costs Tk. 200,000; land revenue paid Tk. 8,000; interest on loan Tk. 2,500; union parisad tax Tk. 4,000; Purchase of tractor Tk. 70,000; and maintenance of the irrigation plant Tk. 12,000. In addition to it, during the year Mr. Taleb Ali also incurred investments and expenses, which includes: family expenses Tk. 50,000; life Insurance premium (policy value Tk. 200,000) Tk. 25,000; purchase of cow for dairy firm Tk. 125,000; donation to prime minister's higher education fund Tk. 20,000; purchase of 5 year Bangladesh Savings Certificate Tk. 100,000; donation to Government Zakat fund Tk. 30,000; and purchase of gold Tk. 27,000.

Solution 9 – 7:

Mr. Taleb Ali			
Income year: 2016 – 2017; Assessment year: 2017 – 2018			
Calculation of Total Income			
Income from Agriculture (Section – 24):	Tk.	Tk.	Tk.
Income from sale of Paddy (1,000 × 400)		400,000	
Income from sale of Jute (500 × 600)		300,000	
Sale of Rabi Crops		160,000	
Income from lease of agricultural land		100,000	
Income from Sale of tea (200,000 × 60%)		120,000	
Agricultural Income on which reduced tax rates (3%) are applicable:		1,080,000	
Income from fisheries	125,000		
Income from mushroom farming	130,000		
Income from dairy farming	120,000	375,000	
Less: Admissible expenses:		1,455,000	
1. Production costs	516,000		
2. Land revenue paid	8,000		
3. Interest on loan	2,500		

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4. Union parishad tax	4,000	
5. Maintenance of kutchha irrigation plant	12,000	<u>542,500</u>
Income from Business and Profession :		912,500
Income from Sale of tea (200,000 × 40%)		<u>80,000</u>
Total		<u>992,500</u>

Calculation of investment allowance

Insurance premium (own)	Tk. 25,000	
Maximum limit: 2,00,000 X 10%	<u>20,000</u>	Tk. 20,000
Donation to PM's higher education fund		20,000
Purchase of 5 year Bangladesh Savings Certificate		100,000
Donation to Government Zakat fund		<u>30,000</u>
Actual Investment		<u>170,000</u>

Maximum limit of investment: Lower of Tk. 15,000,000 and 25% of total income i.e., 25% of 992,500 or Tk. 248,125. As actual investment is within the maximum limit, investment allowance allowed for tax credit is on Tk. 170,000 @ 15% i.e., investment tax credit is Tk. 25,500.

Calculation of Tax liability

		Rate	Tk.
On the first	Tk. 2,50,000	0%	Nil
On the next	3,67,500	10%	36,750
On reduce rate income	<u>3,75,000</u>	3%	<u>11,250</u>
Total	<u>9,92,500</u>		48,000
Less: investment tax credit			<u>25,500</u>
Net tax liability			<u>22,500</u>

Illustration 9 – 8:

Mr. Hatem Ali, a new entrepreneur, started his agricultural farming activities after passing from Bangladesh Agricultural University. He is very aware of the reduced rate of taxes for some typical nature of agricultural income and involved himself into those activities. During the income year 2016-17 his agricultural incomes were: sale of pelleted poultry feed Tk. 200,000; sale of locally produced seeds Tk. 200,000; income from cattle farming Tk. 200,000; income from Dairy farming Tk. 100,000; income from bee keeping Tk. 200,000; and Income from sale of flowers Tk. 800,000.

He maintained the books of accounts properly and claimed Tk. 500,000 as admissible expenses. In addition to it, during the year he has invested Tk. 200,000 in Dhaka Stock Exchange through secondary market shares. Compute taxable income and tax liability of Mr. Hatem Ali, for the income year ended on 30th June, 2017

Solution 9 – 8:

Mr. Hatem Ali

Income year: 2016 – 2017; Assessment year: 2017 – 2018

Calculation of Total Income

Income from Agriculture (Section – 24):	Tk.	Tk.	Tk.
Sale of pelleted poultry feed		200,000	
Sale of seeds		200,000	
Income from cattle farming		200,000	

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Income from dairy farming	100,000	
Income from bee keeping	200,000	
Sale of flowers	800,000	
	<u>1,700,000</u>	
Less: Admissible expenses:	500,000	
Total		<u>1,200,000</u>

Calculation of investment allowance: Purchase of shares Tk. 200,000 is the actual investment.

Maximum limit of investment: Lower of Tk. 15,000,000 and 25% of total income i.e., 25% of 1,200,000 or Tk. 300,000. As actual investment is within the maximum limit, investment allowance allowed for tax credit is on Tk. 200,000 @ 15% i.e., investment tax credit is Tk. 30,000.

Calculation of Tax liability*			
		Rate	Tk.
On the first	Tk. 10,00,000	3%	30,000
On the next	<u>2,00,000</u>	10%	<u>20,000</u>
Total	<u>12,00,000</u>		50,000
Less: investment tax credit			<u>30,000</u>
Net tax liability			<u>20,000</u>

* Here the rate has been considered as per [SRO No. 199-AIN/IT/2015 dated 01/07/2015]

KEY POINTS

1. Agricultural income means income generated by means of agriculture and even also from sale of produce which was processed only to make them marketable.
2. Generation of income by granting a right to any person to use the land for any period is also an agricultural income.
3. Gain on sale of machineries exclusively used for agricultural purpose is an agricultural income whereas loss from such sale is an admissible expense.
4. If compensation money received against demolished machinery or plant exclusively used for agricultural purpose then the compensation is also an income provided that compensation money cannot exceed the difference between original costs and the written down value less the scrap value.
5. In case of partial agricultural income like, income from sale of tea, rubber, sugar mill and tobacco, 60% of the income should be considered as income from agriculture provided sugar cane and tobacco should also produce in the land owned by the assessee.
6. When no books of account are maintained, 60% of the sales proceed of agricultural produce will be allowed as the production cost.
7. Depreciation is an admissible expense but subject to prescribed rates only.
8. Income from sale of produce that grow up in the agricultural land without agricultural works is not an agricultural income.
9. Royalty from lease of mine, fish hunting, ship anchor etc. are not an agricultural income.
10. When agriculture is the only source of income, an assessee is allowed to get an exemption of a maximum amount of Tk. 200,000.

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Multiple Choice Questions:

1. Agricultural income means any income derived from any of the following activities, except –
 - (a) produce that grow up in the agricultural land without agricultural works
 - (b) any process to make the produce marketable
 - (c) granting a right to any person to use the land for any period
 - (d) from any building or its surrounding area occupied by the cultivator for agricultural purpose
2. A weighing machine that has a cost of Tk. 22,000 with a written down value of Tk. 18,000 has been sold out for Tk. 25,000. How much gain should be considered as agricultural income –
 - (a) Tk. 7,000
 - (b) Tk. 4,000
 - (c) Tk. 25,000
 - (d) Tk. 18,000
3. How much income from sale of rubber or tea should be considered as agricultural income –
 - (a) 100%
 - (b) 80%
 - (c) 60%
 - (d) 40%
4. How much income coming out from tea / rubber garden should be considered as business income –
 - (a) 100%
 - (b) 80%
 - (c) 60%
 - (d) 40%
5. How much of the agricultural income is exempted when agriculture is the only source of income of an assessee:
 - (a) Tk. 200,000
 - (b) Tk. 400,000
 - (c) Tk. 2,75,000
 - (d) Tk. 3,00,000
6. Where books of accounts in respect of production cost is not maintained by the assessee, how much expense is admissible as production cost –
 - (a) 40% of the produce's market value
 - (b) 60% of the produce's market value
 - (c) 80% of the produce's market value
 - (d) cost as reported by the assessee
7. What percentage of depreciation is allowed for weighing machine as admissible expense –
 - (a) 5%
 - (b) 10%
 - (c) 15%
 - (d) 20%
8. What percentage of depreciation is allowed for tractor as admissible expense –
 - (a) 5%
 - (b) 10%
 - (c) 15%
 - (d) 20%

9. Which of the followings is an example of typical agricultural income –
 (a) Royalty against lease of mine
 (b) Income from poultry farm
 (c) Sale of forest wood
 (d) Fish hunting
10. Which of the followings is not an example of typical agricultural income –
 (a) income from cattle rearing
 (b) income from tobacco and palm tree
 (c) income from poultry farm
 (d) income from sale of water used for irrigation

Identify the following statements as True (T) or False (F):

- By granting a right to any person to use the agricultural land for any period is not an agricultural income.
- Total gain from sale of agricultural assets is an agricultural income.
- 40% of income from sale of tea and rubber should be considered as income under the head 'Income from Business and Profession'.
- For pucca irrigation channel depreciation is allowable @ 15%.
- Income from cattle rearing is a non-agricultural income.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

Question 9 – 1: Define agricultural income as per the ITO, 1984.

Question 9 – 2: State the characteristics of agricultural income.

Question 9 – 3: Discuss the classification of agricultural income.

Question 9 – 4: Explain the nature of partly agricultural and typical agricultural income with examples.

Question 9 – 5: What expenses are admissible in the computation of agricultural income?

Question 9 – 6: How would you compute income from the following sources:

- Income from tea garden
- Income from rubber garden

Question 9 – 7: “Any income of a farmer is to be treated as agricultural income” – do you agree? Explain.

Question 9 – 8: Discuss the provisions of set off and carry forward of losses of agricultural income.

Question 9 – 9: What is meant by non-assessable agricultural income?

Question 9 – 10: Write short note on:

- Partly agricultural income
- Production cost as an admissible expense
- Non agricultural income
- Depreciation allowance

Problem 9 – 1:

Compute taxable income for Mr. Moin considering (a) he did not keep proper books of accounts (b) he kept necessary books of accounts. Particulars of agricultural income for Mr. Moin for the income year ended 30th June, 2017 are: Sale of Paddy 80 maunds @ Tk. 500 per maund; Sale of Jute 120 maunds @ Tk. 800 per maund; Sale of tea Tk. 70,000; Sale of Rabi crops Tk. 87,000; and Income

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from Barga Tk. 10,000. Expenses relating to all these income are: Cost of seeds and fertilizer Tk. 35,000; Cultivation costs Tk. 53,000; Transportation costs Tk. 8,000; Ordinary processing costs Tk. 9,000; Land revenue paid Tk. 5,000; Union parisad tax Tk. 5,400; Crop insurance premium Tk. 10,600; Allowable depreciation Tk. 4,000; and Interest on borrowed fund Tk. 3,800.

Problem 9 – 2:

Mr. Rusho Rahman is a farmer whose only income is from agriculture. Particulars of Mr. Rusho Rahman for the year ended on 30th June, 2017 are: Sale of rice 110 maunds @ Tk. 650 per maund; Sale of potato 400 maunds @ Tk. 165 per maund; Income from Barga Tk. 20,000; Income from lease of Agricultural land Tk. 30,000; and Income from poultry farm Tk. 42,000. Expenses relating to all these income are as follows: Cost of seeds and fertilizer Tk. 30,700; Labor charge Tk. 39,200; Maintenance costs of agricultural equipments Tk. 1,800; Union parisad tax Tk. 3,900; Crop insurance premium Tk. 6,800; and Depreciation on tractor @ 20% Tk. 16,000. Mr. Rahman has borrowed fund from Grameen Bank Tk. 60,000 at an interest rate of 14% per annum as on January 01, 2016. Allowable depreciation for tractor as per third schedule of income tax ordinance, 1984 is at the rate of 15%. Compute taxable income for Mr. Rusho Rahman.

Problem 9 – 3:

Particulars of Mr. Lutfur Rahman for the year ended 30th June, 2017 are: Sale of Jute 250 maunds @ Tk. 650 per maund; Sale of Rice 112 maunds @ Tk. 580 per maund; Income from lease of agricultural land Tk. 28,000; Income from ferry ghat Tk. 5,000; Income from tea garden Tk. 80,000; Income from Sugar industry Tk. 100,000; and Income from sale of honey Tk. 4,500. Expenses relating to all these income are as follows: Land revenue paid Tk. 8,500; Crop insurance premium Tk. 8,300; Allowable depreciation Tk. 4,250; Interest on mortgage loan Tk. 3,750; Maintenance costs for irrigation plant Tk. 6,200; and Union parisad tax Tk. 5,450. Mr. Rahman had a weighing machine which was purchased at Tk. 10,500. It has become obsolete and has been discarded at Tk. 3,500. At the time of sales the written down value of the machine was 5,200. When asking for proper books of accounts Mr. Rahman failed to provide any supporting documents for production costs though he claimed Tk. 195,720 as production costs. Compute taxable income for the year.

Problem 9 – 4:

Compute taxable income of Mr. Ali from the given particulars related to the year ended 30th June, 2017: Sale of Rice 183 maunds @ Tk. 650 per maund; Income from lease of agricultural land Tk. 28,000; Income from salt production Tk. 18,000; Income from rubber garden Tk. 67,000; Income from sale of forest tree Tk. 32,000; and Income from sale of fish from pond Tk. 24,000. Expenses relating to all these income are: Production costs Tk. 67,000; Land revenue paid Tk. 7,200; Interest on loan Tk. 2,250; Union parisad tax Tk. 3,300; Purchase of tractor Tk. 85,000; Development of a new kutchra irrigation plant Tk. 8,000; and Donation to co-operative society Tk. 4,000.

Problem 9 – 5:

Compute taxable income of Mr. Enamul for the income year 2016 – 2017 considering: Sale of Rice 155 maunds @ Tk. 650 per maund; Sale of Jute 210 maunds @ Tk. 385 per maund; Sale of Rabi Crops Tk. 87,500; Yearly lease of agri. land Tk. 25,500; Sale of Bamboo Tk. 3,200; Income from Tea garden Tk. 70,000; Income from Rubber garden Tk. 65,000; Income from cattle rearing Tk. 4,400; Income from sale of Palm Juice Tk. 8,700; and Income from sale of Honey Tk. 4,300.

Expenses for cultivation are as follows:

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	Rice and Rabi crops	Jute
Cost of seeds and fertilizer	Tk. 28,000	Tk. 6,000
Labor charge	15,000	5,000
Cost of pump machine hire	2,700	1,300
Repair expense of agri equipments	1,200	-
Transportation expenses	1,800	700

When the income tax authority ask for books of accounts regarding cultivation expenses, Mr. Enamul failed to provide proper records for Rice and Rabi crops. His other expenses are: Union parisad tax Tk. 3,500; Land revenue Tk. 1,200; Crop insurance premium Tk. 4,500; Allowable depreciation Tk. 4,800; Maintenance cost of irrigation plant Tk. 3,750. He had a pump machine which was purchased at Tk. 32,000. It has become obsolete and has been discarded at Tk. 8,000. The written down value after charging depreciation at ITO prescribed rate estimated at Tk. 8,500. He has taken agricultural loan Tk. 45,000 @ 8% interest p.a.

Problem 9 – 6:

Compute taxable income and tax liability of Mr. Athar Ali, a 67 years old farmer, from the particulars related to the income year ended on 30th June, 2017, which are:

- (i) Sale of Paddy 200 maunds @ Tk. 400 per maund;
- (ii) Sale of Jute 150 maunds @ Tk. 600 per maund;
- (iii) Sale of Rabi Crops Tk. 60,000;
- (iv) Income from agricultural co-operative society which was organized for farming Tk. 25,000;
- (v) Income from lease of agricultural land Tk. 100,000;
- (vi) Income from Barga Tk. 125,000;
- (vii) Income from sale of herbal or medicinal plants Tk. 30,000;
- (viii) Income from lease of storehouse used for storing crops Tk. 20,000;
- (ix) Income from tobacco industry Tk. 20,000;
- (x) Income from sale of sugar Tk. 35,000; and
- (xi) Income from sale of tea Tk. 20,000.

Mr. Athar Ali had a pump machine which was purchased for Tk. 40,000. To acquire an advance technology in the irrigation plant he has sold the pump machine for Tk. 42,000. At the time of sale the amount of accumulated depreciation of the pump machine was Tk. 18,000. Moreover, he also had a weighing machine which was purchased at Tk. 18,000. It has become obsolete and has been discarded at Tk. 9,500. At the time of sale the written down value of the machine was Tk. 13,000.

He didn't maintain the books of accounts properly. Expenses claimed by him are: Production costs Tk. 200,000; Land revenue paid Tk. 8,000; Interest on loan Tk. 2,500; Union parisad tax Tk. 4,000; Installation of irrigation plant Tk. 70,000; Maintenance of the irrigation plant Tk. 12,000.

In addition, during the year Mr. Athar Ali also incurred the investments and expenses for:

- (i) Family expenses Tk. 50,000;
- (ii) Life Insurance premium (policy value Tk. 3,00,000) Tk. 25,000;
- (iii) Purchase of debenture from primary market Tk. 25,000;
- (iv) Donation to Aga Khan Development Network Tk. 20,000;
- (v) Donation to a local mosque Tk. 6,000;
- (vi) Donation to Government Zakat fund Tk. 30,000; and
- (vii) Purchase of Furniture Tk. 27,000.

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Answers:

Multiple choice questions		True/False
1. a	6. b	1. F
2. b	7. b	2. F
3. c	8. c	3. T
4. d	9. b	4. T
5. a	10. d	5. F

Self review 9 – 1:

Cost of the machine	: Tk. 80,000
Written down value	: Tk. 55,000
Sales proceeds	: Tk. 63,000
Total gain	: Tk. 8,000

This total gain will consider as agricultural income as no capital gain arises out of this sales.

Self review 9 – 2:

(a)			(b)		
	Tk.	Tk.		Tk.	Tk.
Sale (100×600)		60,000	Sale		60,000
Less: admissible expenses-			Less: admissible expenses-		
Production costs			Production costs		
[60,000 X 60%]	36,000		Cost of seeds	15,000	
Union parisad tax	2,500		Labor cost	18,000	
		38,500	Transportation cost	3,000	
		<u>21,500</u>	Ordinary processing cost	4,000	
					40,000
			Union parisad tax		2,500
					<u>42,500</u>
					<u>17,500</u>

CHAPTER – 10

INCOME FROM BUSINESS OR PROFESSION

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After studying Chapter 10, you shall be able to understand:

- ⊕ the concept of income from business or profession
- ⊕ allowable deductions under the head
- ⊕ inadmissible expenses under the head
- ⊕ method of accounting
- ⊕ depreciation allowance
- ⊕ the concept of balancing allowance, balancing charge and capital gain

According to Income Tax Law applicable in Bangladesh, incomes are to be categorized in seven (7) specific heads as mentioned in section 20 of ITO, 1984. Income from business or profession is the fifth head although the head is the most complex one and is of paramount importance to the income tax authority as most of the taxes (in terms of volume) are collected under this head. Here, the authors have tried to make the complex issue as simple as possible for the readers to make it more informative and interesting.

10.1 BUSINESS & PROFESSION

10.1.1 Meaning of Business

The word 'Business' is defined in Section 2(14) to include any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture. Though the definition is not exhaustive, it covers every facet of an occupation carried on continuously and systematically by a person by the application of his labor and skill with a view to earning profit. To regard an activity as a business, there must be a course of dealings, either actually continued or contemplated to be continued with a profit motive and not for sport or pleasure. It is not necessary that business should always consist of activities of trade commerce or manufacture. Even activities of rendering services to others fall within the four corners of the expression 'business'. Thus, the definition of business being an inclusive definition and not being exhaustive is indicative of extension and expansion and not restriction.

Explanation:

1. **Business includes trade:** The term 'trade' is defined by the Shorter Oxford English Dictionary as "the practice of some occupation, business or profession habitually carried on, especially when it is practiced as a means of livelihood or gain". In general, trade implies buying goods and selling them to make profit.
2. **Business includes commerce:** If a person purchases goods with a view to sell them at profit, it is an ordinary case of trade. But for commerce transactions are repeated on a large scale.
3. **Business includes manufacture:** The word "manufacture" is defined by the Oxford English Dictionary as making of articles or materials by physical labor or mechanical power. Manufacture is a process which results in an alteration or change in goods which are subjected to such manufacture. In a manufacturing process raw materials are purchased and processed to get the final consumable products.

4. **Business includes adventure or concern in the nature of trade, commerce or manufacture:** The word 'business' in its commercial sense implies an element of continuity. But the income-tax law does not require any series of transactions to constitute business. Even a single and isolated transaction may fall within the definition of business as being an adventure in the nature of trade, provided the transaction bears clear indication of trade. A transaction can be termed as an adventure in the nature of trade, commerce or manufacture if some elements of trade or business are present therein and not necessarily all elements be present. A single plunge may be enough, provided it is clearly demonstrated that the plunge is made in the water of trade, like, research & development, new product development, etc.

10.1.2 Meaning of Profession:

Profession involves the idea of an occupation requiring purely intellectual skill or manual skill on the basis of some special learning. There should be some special qualification of a person apart from skill and ability, which is required in carrying on any activity which could be considered as a profession. This could be having education in a particular system either in a college, university or institute or it may be even by experience. Examples of profession are doctor, lawyer, auditor, architecture, painter, sculpture, surgery etc. As per Section 2(49), profession includes vocation. The term 'vocation' refers to any activity on which a person spends a major part of his time in order to earn his livelihood. Such as hawker, ferryman, carpenter, potter, social works, preaching religion, singer, actor etc.

10.1.3 Distinction between Business, Profession is of no Importance:

Distinction between business, profession and vocation is of no importance in the computation of taxable income. What does not amount to "profession" may amount to "business" and what does not amount to "business" may amount to "vocation". The Act treats them on an equal footing and the charging provisions for computing taxable income are the same for all of them.

10.2 SCOPE OF INCOME FROM BUSINESS AND PROFESSION [SECTION – 28]

The following income of an assessee shall be classified and computed under the head 'income from business or profession', namely:

- (a) Profits and gains of any business or profession carried on, or deemed to be carried on, by the assessee at any time during the income year;
- (b) Income derived from any trade or professional association or other association of like nature on account of specific services performed for its members;
- (c) Value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession;
- (d) The amount, value of the benefit and the trading liability referred to in sec 19(15); e.g.
 - ⊕ Any amount received whether in cash or in any other manner as collection of any loss charged earlier; any bad debt that was written off in an earlier period;
 - ⊕ Any amount previously charged as interest expense but remained unpaid for three income years shall be deemed to be the income during the income year immediately following the expiry of the said three years;
 - ⊕ Any benefits received in respect of trading liability should be the income in the year of such receipt if not considered earlier;
 - ⊕ If any trading liability, either in part or full, has not been paid in 3 years after the deduction made in this respect, such amount be deemed to be the income during the income year immediately following the expiry of the said 3 year;

- (e) The excess amount referred to in section 19(16); for example – the balancing charge of any building, machinery, plant used for the purpose of business or profession, disposed of.

Example: Suppose, a machine was sold at Tk. 80,000 with a written down value of Tk. 50,000 and was originally purchased at Tk. 70,000. In this case, the total gain on sale will be Tk. 30,000 (sale proceeds minus WDV). Now, whether this gain can be shown as balancing charge? As per rule, balancing charge must not exceed Tk. 20,000 (original cost minus WDV). Hence, total gain of Tk. 30,000 will be distributed as Tk. 10,000 as capital gain (Sale Proceeds minus Original Cost) and Tk. 20,000 as balancing charge (Sale Proceeds minus WDV). So balancing charge is nothing but the revenue gain that can be shown as income under this head. Whereas, capital gain will be shown as income under the head of capital gain. In this case, if the machine was sold less than the original cost, say, at Tk. 60,000, there will be no capital gain. The balancing charge in this case would be Tk. 10,000 (Tk. 60,000 – Tk. 50,000) only.

- (f) The excess amount referred to in section 19(18); for example - Insurance compensation received against any building, machineries or plant, used for the purpose of business or profession, that is demolished, destroyed or discarded to the extent the amount equals to balancing charges.

Example: Suppose a machine with Tk. 70,000 original cost and Tk. 50,000 written down value is totally destroyed by fire against which there is an active insurance policy. If Tk. 60,000 can be recovered from the insurance company, then balancing charge will be Tk. 10,000 (Recoverable value minus WDV) which must not exceed Tk. 20,000 (Original Cost minus WDV). In such case, there is no chance of having capital gain. But the maximum amount of balancing charge will further be reduced, if any money can be recovered through scraping. If, in this situation, the burnt machine can be sold in the market as a scrap value of Tk. 2,000, maximum amount for balancing charge will be Tk. 18,000 (Original Cost minus WDV minus Scrap Value)

- (g) The sale proceeds referred to in section 19(20); for example – sale proceeds of any asset used for scientific research to the extent such proceeds do not exceed the amount of expenditure allowed as deduction under section 29(1)(XX).
- (h) The amount of income under section 19(23); for example – 3% (Rule 30A) of the export value of the garments exportable against the export quota as transferred to any assessee.

Partial income under the head as per different rules:

- (a) Income derived from the sale of *tea* grown and manufactured by the seller in Bangladesh shall be computed as if 40% of such income was derived from business and 60% of such income was derived from agriculture (Rule 31);
- (b) Income derived from the sale of *rubber* grown and manufactured by the seller in Bangladesh shall be computed as if 40% of such income was derived from business and 60% of such income was derived from agriculture (Rule 32);
- (c) Tobacco, sugar or other agricultural products that needs industrial process to make it marketable. Here, income from business will be (Final Sale Proceeds – Fair value of the raw materials produced). (Rule 30)

Explanation: no further deduction shall be made in respect of any expenditure incurred by the assessee as a cultivator or receiver of the produce in kind.

SELF REVIEW 10 – 1

- (a) If an asset is sold at taka 100,000 with initial cost of taka 70,000 and WDV of taka 60,000. Compute capital gain and balancing charge.
- (b) How much of the income derived from the production and manufacturing of tea should be shown as income from business?

10.3 ALLOWABLE DEDUCTIONS / ADMISSIBLE EXPENSES:

10.3.1 Under IT Ordinance, 1984 (Sec 29) –

Under section 29 of the ITO 1984, certain expenses are allowed for deduction though this is not an exhaustive one. Ideally any business related expenses or losses can be deducted to compute the profits and gains if that is required for the normal course of business. But the expenses for future liability settlement are not allowed as allowable deduction (except some exceptions like the bad and doubtful debt for banks). As per Section 29, the following allowances and deductions shall be allowed in computing the income under the head “Income from Business and Profession”, namely:

- (a) **Rent of Premise:** The amount of any rent paid for the premises in which the business of profession is carried on; [sec 29(1)(i)]

Proportional rent is allowed for deduction if premises are partially used for dwelling and no deduction is allowed if the house is owned by the assessee.

- (b) **Repair of Hired Premise:** The amount paid for repairs of hired premises in which the business or profession is carried on if the assessee has undertaken to bear the cost of such repair; [sec 29(1)(ii)]

Proportional rent is allowed for deduction if premises are partially used for dwelling.

- (c) **Interest on Borrowed Capital:** The amount of interest paid or and profit shared with a bank run on Islamic principles in respect of capital borrowed for the purpose of the business or profession; [sec 29(1)(iii)]

If such capital relates to replenishing the cash or to any other asset transferred to any other entity, when lending of money is not the business of transferor, the interest expenses or profit should be proportionate to the extent relates to assessable part only.

- (d) **Distribution of Profit:** Any sum paid by way of profit by a bank run on Islamic principles on deposits; [sec 29(1)(iv)]
- (e) **Transfer to Special Reserve Account:** Amount carried to any special reserve not exceeding 5% of total income by such financial institutions as approved by the Government provided that the aggregate amount standing in such reserve does not exceed the paid up share capital of the institution; [sec 29(1)(v)]
- (f) **Current Repairs:** Amount paid due to current repairs to buildings, machinery, plant or furniture used for the purpose of business or profession; [sec 29(1)(vi)]
- (g) **Insurance Premium:** Insurance premium paid for policy purchased against risk of damage, destruction or loss of buildings, machinery, plant, furniture, stocks or stores that relates to business or profession; [sec 29(1)(vii)]
- (h) **Depreciation:** Depreciation allowances of business assets or bridge or road or fly over owned by a physical infrastructure undertaking as admissible under the third schedule; [sec 29(1)(viii)]

- (i) **Amortization of License Fee:** As admissible under the 3rd Schedule [Sec 29(1)(viiiia)]
- (j) **Investment Allowance for Ships:** Investment allowance to an amount equivalent to 20% of the original costs for a ship being a passenger vessel plying ordinarily on inland waters, or a fishing trawler, which is entitled to a special depreciation allowance under paragraph 8 of the Third Schedule for the year in which the ship or the trawler is first put to use for public utility; [sec 29(1)(ix)]
- (k) **Obsolescence allowance:** computed in the manner specified in paragraph 10 of the Third Schedule if any building, machinery, plant or any other fixed asset not being imported software, has been discarded, demolished or destroyed or has been sold or transferred; i.e. Obsolescence allowance = WDV – Sale proceeds [sec 29(1)(xi)]
- (l) **Allowance for Disabled or Dead Animals:** Write off allowance for animals if it has died or become permanently useless, an amount equivalent to the difference between the original cost and the sum, if any, realized by sale or other disposition of the carcass of the animal; [sec 29(1)(xii)]
- (m) **Land Development Tax or Local Taxes:** Any sum paid on account of land development tax or rent, local rates or municipal taxes in respect of any premises used by the assessee for the purpose of business or profession; [sec 29(1)(xiii)]
- (n) **Bonus or Commission:** Any bonus or commission paid to the employees for services rendered (not payable as profits or dividends), that fulfills followings: [sec 29(1)(xiv)]
 - ⊕ If paid in line with the general practice of similar business or profession,
 - ⊕ If the business or profession reports operating profit in the year,
 - ⊕ If paid according to the service and other rules of the employee,
- (o) **Bad Debt:** The amount of any debt that has become established as irrecoverable and has actually been written off during the income year; for banking or money lending business carried on by the assessee, it would represent money lent in the ordinary course of business; [sec 29(1)(xv)]
- (p) **Old Bad Debt:** Any debt actually written off and irrecoverable but not established as such and was not allowed earlier if established in the income year would be allowed as a deduction; [sec 29(1)(xvi)]
- (q) **Additional Bad Debt:** Any debt actually written off as irrecoverable for an income year and the DCT is satisfied that the debt become irrecoverable in an earlier income year not falling beyond four years immediately preceding the income year when it was written off; [sec 29(1)(xvii)]
- (r) **Provision for Bad and Doubtful Debts:** Provision for bad and doubtful debts made by certain banks were applicable for some assessment years. But for the assessment year 2013-14 this is not admissible. [Sec 29(1)(xviiiia) and 29(1)(xviiiiaa)]

If any amount out of the amount so allowed is ultimately recovered, the same shall be deemed to be a profit of the year in which it is recovered.

- (s) **Expenditure on Scientific Research:** Any revenue expenditure laid out or expended on scientific research in Bangladesh related to the business carried on by the assessee; [sec 29(1)(xix)]
- (t) **Payment for Scientific Research:** Any capital expenditure laid out or expended on scientific research in Bangladesh related to the business carried on by the assessee; [sec 29(1)(xx)]

If this deduction is allowed in any income year, no depreciation on such asset would be allowed under clause (viii) or (ix).

- (u) **Donation to Research Body:** Any sum paid to a scientific research institute, association or other body engaged in such scientific research, or to a university, college, technical school or other institution, approved by the board, for the purpose of scientific research or technical training related to the class of training carried on by the assessee; [sec 29(1)(xxi)]
- (v) **Payment to Educational Institution or Hospital:** Any revenue expenditure laid out or expended on any educational institution or hospital established for the benefit of the employees of the assessee, their families and dependents or on the training of industrial workers; [sec 29(1)(xxii)]

Provided that the services provided or training imparted is free of cost and no deduction or allowance is claimed for such expenditure under any other clause.

- (w) **Donation to Educational Institution or Hospital:** Any capital expenditure laid out or expended on the construction and maintenance of any educational institution or hospital established for the benefit of the employees of the assessee, their families and dependents or on any institute for the training of industrial workers; [sec 29(1)(xxiii)]

Provided that the services provided or training imparted is free of cost and no deduction or allowance is claimed for such expenditure under any other clause.

- (x) **Expenditure on Training :** Any expenditure laid out or expended on the training of citizens of Bangladesh related to a scheme approved by the board; [sec 29(1)(xxiv)]
- (y) **Expenses on Traveling Abroad as a member of Trade Delegation:** Any revenue expenditure incurred by an assessee in connection with visits abroad as a member of a trade delegation sponsored by the government; [sec 29(1)(xxv)]
- (z) **Subscription to a Registered Trade Organization:** Any sum paid on account of annual membership subscription to a registered trade organization within the meaning of the Trade Organizations Ordinance, 1961 or to a professional institution recognized by the board; [sec 29(1)(xxvi)]
- (aa) **Other Revenue Expenditures:** Any revenue, not personal, expenditure laid out or expended wholly and exclusively for the purpose of the business or profession of the assessee; [sec 29(1)(xxvii)]

10.3.2 Under IT Rules, 1984 –

Under IRO, 1984, some deductions are allowed upto a certain limit as follows:

- (a) **Entertainment Expense [Rule 65]:**

Income, profits and gains of the business and profession (before charging such allowance)	Allowable rate
On the first Tk. 10 lakh	4%
On the balance / rest of the amount	2%

- (b) **Foreign Travel Allowance of Employees [Rule 65A]:**

Foreign travels for holidays and recreation of an employee and his dependants (spouse and minor children including step and adopted children) for once in every two years to the extent of 3 months basic or three-fourths of the actual expenditure,

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whichever is less, shall be admissible; But in this regard, payment exceeding Tk. 10,000 shall not be allowed as a deduction unless such payment is made by a crossed check drawn on a bank or by a crossed bank draft.

(c) **Free Sample Distribution [Rule 65C]:**

Expenditure on distribution of free sample is admissible as given below:

Ceiling of Turnover	Pharmaceutical Industries	Food, Cosmetics and toiletries Industries	Other Industries
Up to Tk. 5 crore	2.00 %	1.00%	0.50 %
Above Tk. 5 crore to Tk. 10 crore	1.00 %	0.50%	0.25%
Above Tk. 10 crore	0.50%	0.25%	0.10%

10.3.3 Admissible Business Losses:

It is obvious that business profit cannot be computed without allowing a business loss. A trading loss of business is deductible in computing the profit earned by the business even though there is no specific provision in the Act for allowance thereof. Business losses can be allowed as deduction only if the following conditions are satisfied:

Condition 1:	Losses should be revenue in nature.
Condition 2:	Losses should be incurred during the income year.
Condition 3:	Losses should be incidental to the business or profession carried on by the assessee.
Condition 4:	It should not be notional or fictitious.
Condition 5:	It should have been actually incurred and not merely anticipated to incur in future.
Condition 6:	There should not be any, direct or indirect, restriction under the Act against the deductibility of such loss.

In following cases, it has been held that the loss is incidental to business and is deductible in computing the income chargeable under “Income from Business and Profession”:

- (a) Loss of stock-in-trade as a result of enemy action, or arising under similar circumstances;
- (b) Loss of stock-in-trade due to destruction by fire and other natural calamities or due to an act of God;
- (c) Loss arising because failure on the part of the assessee to accept delivery of goods;
- (d) Depreciation in funds kept in foreign country for purchase of stock-in-trade;
- (e) Loss due to exchange rate fluctuations of foreign currency held on revenue account;
- (f) Loss arising from sale of securities held in the regular course of business;
- (g) Loss of cash and securities in a banking company on account of burglary (may be after banking hours);
- (h) Loss incurred on realization of amount advanced in connection with business;
- (i) Loss of security deposited for the purposes of acquisition of stock-in-trade;
- (j) Loss caused due to breach of contract for delivery of goods by either party;
- (k) Loss on account of embezzlement by an employee;
- (l) Loss caused due to forfeiture of a deposit made by the assessee for properly carrying out of contract for supply of commodities;

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- (m) Loss incurred due to theft or burglary in factory premises during working hours;
- (n) Loss of raw material, finished goods in transit;
- (o) Loss arising from negligence or dishonesty of employees;
- (p) Loss incurred on account of insolvency of banker with which current account is maintained by the assessee;
- (q) Loss incurred due to freezing of the stock-in-trade by enemy action;
- (r) Loss incurred by a sugar manufacturing company by foregoing advance made to sugarcane growers who used to sell sugarcane crop exclusively to the company;
- (s) Loss because non-recovery of advances given by the assessee-company (engaged in the business of financing its subsidiaries) to its 100 percent subsidiary company;
- (t) Loss incurred by a holding company which has guaranteed a loan taken by its subsidiary company;

Note: Where an assessee seeks to deduct from his business profits certain losses, the onus of proving that such loss occurred, falls on him.

10.3.4 Other Admissible Expenses under Accounting Principles –

Section 29 of IT Ordinance, 1984 and Rule 65 of IT Rules, 1984 deals with specific issues regarding allowable deductions where the practitioners may have chance to charge wrong amount as deductions if there is no specific provisions or guidelines over those issues. But apart from the issues discussed, there may be a lot of other expenses incurred by the assessee for continuing his business or profession. In those cases, general accounting principles will be applied to decide whether the expense is deductible or not.

These expenses may also be discussed in terms of *Residuary or Omnibus Clause* under section 29(1)(xxvii). Some of such expenses are pointed out below:

- ⊕ Revenue expenditure on publicity, campaign and advertisement;
- ⊕ Accounting and audit fees;
- ⊕ Compensation to employees or directions due to dismissal, suspense;
- ⊕ Compensation to an employee for injury or accident met while on duty;
- ⊕ Litigation expenses / legal fees incurred in partnership for validating the contract or for protecting interest of the business;
- ⊕ Employers contribution to provident fund (PF), approved gratuity and superannuation fund;
- ⊕ Perquisites or leave allowance given to employees;
- ⊕ Royalty paid against patent or copy right;
- ⊕ Telephone and telegraph expenses;
- ⊕ Incentives given to employees to motivate to produce or work more;
- ⊕ Production, transportation and marketing expenses of inventories;
- ⊕ Renewal fees of licenses;
- ⊕ Expenses incurred in defending a case for damages for breach of contract;
- ⊕ Any sort of legal fees incurred for the sake of business or profession;
- ⊕ Expenditures incurred to alter articles or memorandum of association;
- ⊕ Commission for securing orders, getting tenders, retaining customers;
- ⊕ Sales tax, VAT, water & road tax, municipal tax, excise duty, customs duty etc.;
- ⊕ Expenses incurred in defending the assessee's title over his assets;
- ⊕ Welfare expenditure incurred for employees;
- ⊕ Traveling expense of the directors for business purpose;
- ⊕ Gift to employees;

- ⊕ Brokerage paid for raising loan to finance business;
- ⊕ Stamp and registration charges for the purpose of entering into agreement for obtaining overdraft facilities;
- ⊕ Commission paid to selling agents;
- ⊕ Contribution to a trade syndicate to preventing uneconomic competition;
- ⊕ Periodical payment for the use of goodwill;
- ⊕ Annual listings fees paid to stock exchanges;
- ⊕ Expenses incurred to secure the termination of a disadvantageous trade liability etc.

SELF REVIEW 10 – 2

- (a) How much of the amount carried to any special reserve is allowed for deduction?
- (b) What will be the allowable entertainment expenses if total income amounts to taka 1,000,000.
- (c) How much of the cost of free sample is admissible for a pharmaceutical industry for a turnover of taka 40,000,000.

10.4 INADMISSIBLE EXPENSES

10.4.1 Under IT Ordinance, 1984 (Sec 30) –

As per section 30 of the IT Ordinance, 1984, some expenses do not qualify for deduction partly or fully. Such expenses are as follows:

- (a) If salaries paid to the employees without deducting taxes at source (TDS); [sec 30(a)]
- (b) If any payment is made by the assessee to any person without deducting/crediting taxes at sources in accordance with the provisions of Chapter VII; [sec 30(aa)]
- (c) If salaries paid to the employees who are required to obtain a twelve-digit TIN but fails to obtain the same at the time of making such payment; [sec 30(aaa)]
- (d) Any payment made after the Tax Day by way of salary to an employee if the employee is required to file the return of income but fails to file the same on or before the Tax Day or obtain time extension, as the case may be; [sec 30(aaaa)]
- (a) Any payment by way of interest/salary/commission, or remuneration made by a firm or an association of persons to any partner or any association member; [sec 30(b)]
- (b) Any payment of brokerage or commission made to a person who is not a resident in Bangladesh unless tax has been deducted there from under section 56; [sec 30(c)]
- (c) Any payment to a provident fund or other fund established for the benefit of the employees unless the employer has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are taxable being income falling under the head “Salaries”; [sec 30(d)]
- (d) So much of the expenditure by an assessee on the provision of perquisites or other benefits to any employee as exceeds Tk. 475,000 and to any employee who is a person with disability, as exceeds Tk. 25,00,000; [sec 30(e)]

The provision of this clause shall not be applicable to an employer where perquisites or other benefits were paid to, an employee in pursuance of any Government decision published in the official Gazette to implement the recommendation of a Wage Board constituted by the Government

- (e) Any expenditure in respect of the following is in excess of the amount or rate prescribed in this behalf and as is not, in the cases of sales and services liable to excise duty, supported by excise stamp or seal, namely
 - ⊕ entertainment;

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- ⊕ publicity and advertisement;
 - ⊕ foreign travels of employees and their dependents for holidaying and recreation; and
 - ⊕ distribution of free samples; [sec 30(f)]
- (f) Expenditure exceeding 10% of the net profit disclosed in the statement of accounts under the head of Head Office Expenses by a company not incorporated in Bangladesh under Company Act, 1994; [sec 30(g)]
- (g) Any payment of royalty, technical services fee, technical knowhow/assistance fee exceeding 8% of the net profit disclosed in the statement of accounts. [Sec 30(h)]
- (h) Salary or allowance expense if it is not paid by crossed check or bank transfers to the employees whose monthly salary or allowance is Taka 15,000 or more. [Sec 30(i)]
- (i) Exp. by way of incentive bonus exceeding 10% of the net profit disclosed in the statement of accounts. [Sec 30(j)]
- (j) Expenditure by way of overseas traveling expense exceeding 1.25% of disclosed turnover. Provided that nothing of this clause shall apply to the overseas traveling expenses by an assessee engaged in providing any service to the Government where overseas traveling is a key requirement of that service. [Sec 30(k)]
- (a) Any payment by way of commission paid or discount made to its shareholder director by a company. [Sec 30(l)]
- (b) Any payment by a person exceeding taka 50,000 or more, otherwise than by a crossed check or bank transfer excluding payment for the purchase of raw materials; salary or remuneration made to any employee, without prejudice to an obligation referred to in clause (i); and any payment for government obligation. [Sec 30(m)]
- (c) Any payment by way of any rent of any property, whether used for commercial or residential purposes, otherwise than by a crossed cheque or bank transfer. [Sec 30(n)]
- (d) Any payment made to a person who is required to obtain a twelve-digit Taxpayer's Identification Number under clauses (xxviii), (xxix) and (xxx) of sub-section (3) of section 184A but fails to hold the same at the time of payment. [Sec 30(o)]

Note: Provision for disallowance: Notwithstanding anything contained in sections 28, 29 and 30, the Deputy Commissioner of Taxes (DCT) shall not make any disallowance or deduction for any year from any claim made by an assessee in the trading account or profit or loss account without specifying reason for such disallowance or deduction. (Under Sec 30A)

10.4.2 Inadmissible Business Losses:

The following losses are not deductible from business income:

- (a) Loss which is not incidental to trade or profession, carried on by the assessee;
- (b) Loss incurred due to damage, destruction, etc. of capital assets;
- (c) Loss incurred due to sale of shares held as investment;
- (d) Loss of advances made to set up new business which ultimately could not be started;
- (e) Depreciation of funds kept in foreign currency for capital purposes;
- (f) Loss arising from non-recovery of tax paid by an agent on behalf of the non-resident;
- (g) Anticipated future losses;
- (h) Loss relating to any business or profession discontinued before the commencement of income year;
- (i) Loss arising as a result of seizure and confiscation of illegal stock-in-trade;
- (j) Loss incurred in the closing down of the business;
- (k) Loss caused by forfeiture of advance given for purchase of capital assets

- (l) Violation of law is not a normal incident of trade and an expense incurred by way of penalty for infraction of laws is not deductible as business loss.

10.4.3 Other Inadmissible Expenses –

The list of inadmissible expenses given in Sec 30 is not inclusive one. There are some other inadmissible expenses that may be discussed in terms of *Residuary or Omnibus Clause* under section 29(1)(xxvii). Some of such expenses are pointed out in the following figure.

- ⊕ Past losses, in case of change of business;
- ⊕ Penalty, fine and damages paid in connection with infringement of law;
- ⊕ Payments made for acquisition of goodwill;
- ⊕ Fees paid to obtain license to investigate and search minerals;
- ⊕ Any payment to partner in any form;
- ⊕ Income tax and Provision for income tax;
- ⊕ Reserve for bad debt and reserve for discount;
- ⊕ Contribution to unrecognized provident fund;
- ⊕ Capitalized expenditure in any form;
- ⊕ Preliminary expenses, underwriting commission, writing off share discount;
- ⊕ Loss of speculative business;
- ⊕ Fund embezzlement after office hour;
- ⊕ Fund embezzlement by stranger during office hour
- ⊕ Expenses for protecting against competition;
- ⊕ New years' presentation to employees;
- ⊕ Cost of copy right, patent etc;
- ⊕ Loss on sale of capital asset;
- ⊕ Legal expenses for income tax, alteration of capital, company dissolution;
- ⊕ Contingent liability;
- ⊕ Personal expenses of assessee;
- ⊕ Payment of fine for violation of law;
- ⊕ Contribution to political parties;
- ⊕ Excess remuneration paid to the employee who have relation with the partner;
- ⊕ Gratuity paid to a single employee when it was not the practice of the company to give gratuities;
- ⊕ Expenditures incurred for issuing of shares.

SELF REVIEW 10 – 3

State the limit of expenses that is not admissible – (a) perquisites or other benefits (b) head Office Expenses (c) royalty, technical services fee, technical knowhow fee or technical assistance fee (d) incentive bonus (e) overseas traveling expense

10.5 METHOD OF ACCOUNTING

10.5.1 Under IT Ordinance, 1984 –

IT Ordinance, 1984 remains silent in terms of dictating the method of accounting. Rather in section 35 it has made the prerogative of the assessee to follow any method of accounting system as employed by him on regular basis. Though there is no clear guideline regarding the accounting system to be employed, the section made the requirements of an accounting system clear. From the following subsections it becomes clearly evident.

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- (1) All income classifiable under the head "Agricultural income", "Income from business or profession" or "Income from other sources" shall be computed in accordance with the method of accounting regularly employed by the assessee. [Sec 35(1)]
- (2) Notwithstanding anything contained in sub-section (1), the Board may, in case of any business or profession, or class of business or profession, or any other source of income, or any class of persons or class of income, by a general or special order, direct that the accounts and other documents shall be maintained in such manner and form, and the mode of payments of commercial transactions recorded in such manner and form, as may be prescribed or as may be specified in such direction; and thereupon the income of the assessee shall be computed on the basis of the accounts maintained, payments made and transactions recorded accordingly. [Sec 35(2)]
- (3) Without prejudice to the preceding sub-sections, sections, every public or private company as defined in the Companies Act, 1913 (VII of 1913) or Companies Act, 1994, shall, with the return of income required to be filed under this Ordinance for any income year, furnish a copy of the trading account, profit and loss account and the balance sheet in respect of that income year certified by a chartered accountant to the effect that the accounts are maintained and the statements are prepared and reported in accordance with the Bangladesh Accounting Standards (BAS) and the Bangladesh Financial Reporting Standards (BFRS), and are audited in accordance with the Bangladesh Standards on Auditing (BSA)". [Sec 35(3)]. The DCT without pointing out any defect whatsoever in respect of the audited accounts of the assessee disallowed certain deductions on omnibus grounds which are not sustainable in law [*Titas Gas (T&D) Co Ltd Vs. Commissioner of Taxes* 53 DLR 209].
- (4) Where –
 - (a) No method of accounting has been regularly employed, or if the method, employed is such that, in the opinion of the Deputy Commissioner of Taxes, the income of the assessee cannot be properly deduced therefrom; or
 - (b) In any case, to which sub section (2) applies, the assessee fails to maintain accounts, make payments or record transactions in the manner directed under that sub-section; or
 - (c) A company has not complied with the requirements of sub section (3);

the income of the assessee shall be computed on such basis and in such manner as the Deputy Commissioner of Taxes may think fit. [Sec 35(4)]

10.5.2 Under IT Rules, 1984 –

Rule 8 of IT Rules gives a clear guideline regarding the method and even the form (specimen) of such accounts to be maintained by medical practitioners, whether known as doctors, surgeons, physicians, dentists, psychiatrists, homeopaths, tabibs, voids, veterinary surgeons or by any other name and by legal practitioners (including IT practitioners), accountants, auditors, architects and engineers in the following forms, namely:

Forms	Name	Maintained By
From A (1)	Cash Register	Medical Practitioner
Form A (2)	Cash Register	Legal Practitioner
Form B	Payment Book	Both Medical and Legal Practitioner
Form C	Receipt Book	Both Medical and Legal Practitioner

But in sub-rule 7, the assessee has been given the right to add any further columns or particulars in the specified form or even to go for some additional forms if he may think fit to maintain his own requirement.

10.6 PREVAILING ACCOUNTING SYSTEMS

The assessee is free to select his own accounting system. But the condition is that the system should be maintained over the periods. He cannot switch over the practices from time to time. Because, there remains an option to evade tax if he has been given the chance to do that. Till date, we have three different types of accounting system, namely:

1. **Cash Basis of Accounting:** In this system, records are only made when cash is received or paid. No records are kept for accrual or outstanding amounts. If books of account are kept by an assessee on the basis of cash system of accounting, income actually collected during the income year is taxable whether it relates to the income year or some other year(s). Similarly, expenditure actually paid during the income year is deductible irrespective of the fact whether it relates to the income year or some other year(s). In Governmental accounting system and in some profession like Doctors, Lawyer, Chartered Accountants; this basis of accounting is customary.
2. **Accrual Basis of Accounting:** In this system the records are made as early as when the revenue is earned and expenses are incurred, whether cash is received or not. Sometimes, it is termed as **mercantile system**. In this system, net profit or loss is calculated after taking into consideration all income and expenditure of a particular accounting year irrespective of the fact whether they are received or paid. As the whole corporate world follows this system, this should be the ideal system under Generally Accepted Accounting Principles (GAAP).
3. **Mixed / Hybrid System:** In this system, both cash and accrual basis is merged depending on the nature of operation prevalent in the business of assessee. For example, receipts may be recorded on cash basis and payment may be recorded on accrual basis. This method is also as good as the other methods as section 35 has given the choice over the assessee himself.

10.7 DEPRECIATION ALLOWANCE (U/S 29 AND THE THIRD SCHEDULE)

Depreciation is the scientific way of quantifying the value for the wear and tear loss of all tangible fixed assets except land. Due to the use of those assets, the economic value in terms of serviceability in future declines and such declined amount is charged as depreciation against profit in respective years. Though in IT Ordinance or Rules, depreciation is not defined, the method of depreciation is to be followed as mentioned therein. In section 29(1)(viii), it has been mentioned that the allowance for depreciation is admissible under the Third Schedule of IT Ordinance, 1984.

10.7.1 Depreciable Assets –

Building, machinery, plant and furniture owned by an assessee and used for the purpose of business or profession carried on by him is eligible for depreciation allowance. Here, furniture includes fittings [Para 11(1), Third Schedule]; plant includes ships, vehicles, books, scientific apparatus and surgical equipment used for the purpose of business or profession [Para 11(2), Third Schedule]; ship includes a steamer, motor vessel, sail, tug boat, iron or steel flat for cargo, wooden cargo boat, motor launch and speed boat [Para 11(4), Third Schedule].

10.7.2 Basis for charging Depreciation –

According to Third Schedule of IT Ordinance, 1984 two basis are used for charging depreciation, namely:

1. **Actual Costs:** Ocean going ships
2. **Written Down Value:** All depreciable assets except ocean going ships

Explanation:

Actual Costs: [Para 11(6) (a, b, c, d, e), Third Schedule]

- ✦ In the case of motor vehicles, being passenger vehicles or sedan cars, not plying for hire, the actual cost to the assessee shall be deemed not to exceed twenty five lakh taka.
- ✦ Any grant, subsidy, rebate or commission and the value of any assistance received by an assessee from government or any other authorities or persons and any deduction or allowance admissible shall be excluded to compute actual cost.
- ✦ Where the asset is acquired as a used one from its previous owner, the cost deemed not to exceed the fair market value as on the date of such acquisition.
- ✦ Where the asset is inherited, cost will be the amount of written down value to its successor.
- ✦ If the asset is imported and installed for the purpose of business and profession in Bangladesh, the cost should be adjusted for any foreign currency fluctuation gain or loss.

Written Down Value: [Para 11(5), Third Schedule]

- ✦ At the year of purchase, the actual costs to assessee will be the written down value.
- ✦ If the asset was acquired at an earlier period, the written down value will be the actual cost thereof to the assessee as reduced by the aggregate of the allowances for depreciation allowed under IT Ordinance, 1984.

10.7.3 Types of Depreciation Allowance –

As per the 3rd Schedule, there are four different types of depreciation allowance, namely:

- 10.7.3.1. Normal Depreciation Allowance
- 10.7.3.2. Initial Depreciation Allowance
- 10.7.3.3. Accelerated Depreciation Allowance
- 10.7.3.4. Special Depreciation Allowance

10.7.3.1 Normal Depreciation Allowance (As per Para 3, Third Schedule) –

The allowance for normal depreciation under paragraph 2 shall be computed at the rate specified in Para 3, Third Schedule that may be amended by the Board, from time to time, by notification in the official gazette, for the assets owned by the assessee and used for the purpose of business and profession only.

Table: Rates of Normal Depreciation

Classification of Assets	Rate	On the:
1. (a) Buildings (general)	10	WDV
(b) Factory Buildings	20	WDV
2. Office equipment	10	WDV
3. Furniture and Fittings	10	WDV
4. Machinery and Plant:		
(a) General Rate	20	WDV
(b) Special Rate –		
❖ Ships		
(i) Ocean going ships (new)	12	WDV
(ii) Ocean going ships (second hand), age at the time of purchase		

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⇒ less than 10 years	12	Original Cost
⇒ 10 years or more	24	Original Cost
(iii) Inland ships including steamers, motor vessels, sails, tug boats, iron or steel flats for cargo boats, wooden cargo boats, motor launches and speed boats	24	WDV
❖ (i) Batteries, X-Ray and electro-therapeutic apparatus and accessories thereto;	20	WDV
(ii) Machinery used in the production and exhibition of cinematographic films;	20	WDV
(iii) Motor vehicles all sorts not plying for hire;	20	WDV
(iv) Motor vehicles all sorts plying for hire.	24	WDV
(v) Computer and computer equipment	30	WDV
(vi) Imported computer software	10	WDV
❖ (i) Professional and reference books;	30	WDV
(ii) Aircraft, aero-engines and aerial photographic apparatus;	30	WDV
(iii) (Moulds used in the manufacture of glass or plastic goods or concrete pipe.	30	WDV
❖ Mineral oil concerns –		
(i) Below ground installations;	100	WDV
(ii) Above ground installations, that is to say, portable boilers, drilling tools, well head tanks and rigs.	30	WDV
❖ physical infrastructure undertaking-		
(i) Bridge	2	WDV
(ii) Road	2	WDV
(iii) Fly over	2	WDV
(iv) Pavement runway, taxiway	2.5	WDV
(v) Apron, termac	2.5	WDV
(vi) Boarding bridge	10	WDV
(vii) Communication, Navigation aid and other equip.	5	WDV

Source: Para 3, the Third Schedule, IT Ordinance, 1984

[**Note:** Any asset that fall under the description 'Machinery and Plant' having useful life not more than one year, allowance is not allowed though the cost of renewal or replacement thereof shall be allowed as a revenue expenditure. (Para 5, Third Schedule)]

10.7.3.2 Initial Depreciation Allowance (As per Para 5A, Third Schedule) –

Where any building has been newly constructed or any machinery or plant has been installed in Bangladesh after the 30th Day of June, 2002, an amount by way of initial depreciation allowance in respect of the year of construction or installation or the year in which such building, machinery or plant is used by the assessee for the first time for the purpose of his business or profession or the year in which commercial production is commenced, whichever is the later, shall be allowed at the following rates, namely:

- | | |
|--|---|
| (a) In the case of building | : 10% of the cost thereof to the assessee |
| (b) In the case of machinery or plant other than ships or motor vehicles not plying for hire | : 25% of the cost thereof to the assessee |

[**Note:** Initial Depreciation Allowance will be in addition to Normal Depreciation Allowance.]

10.7.3.3 Accelerated Depreciation Allowance (As per Para 7, 7A, 7B; Third Schedule) –

Accelerated depreciation means charging depreciation at a higher rate from the very beginning. It was first introduced in 1982 for 5 years thereafter, then extended for further years and through different Finance Acts. As per Para 7, 7A, 7B of the Third Schedule, accelerated depreciation allowance can be summarized as:

Para	Requirements of Assets for Qualification	Rates of Accelerated Depreciation
7	Any new machinery or plant, other than office appliances and road transport vehicles, has been or is used in an industrial undertaking set up in Bangladesh between 01.07.1977 and 30.06.2012 (both day inclusive)	50% of the actual cost – in the first year of commercial production 30% of the actual cost – for the next following second year 20% of the actual cost – for the next following third year
7A	Any new machinery or plant, other than office appliances and road transport vehicles, has been or is used in the expansion unit or in the treatment and disposal of toxic and environmentally hazardous wastes or in the collection or processing of biodegradable wastes or in the research and development of any industrial undertaking, set up between 01.07.1995 and 30.06.2005 (both day inclusive) <i>Note: This depreciation allowance has of no use, as the period has not been extended after 2005.</i>	80% of the actual cost - in the first year of commercial production or operation 20% of the actual cost - for the next following year
7B	In the case of any machinery or plant (other than office appliances and road transport vehicles) which, not having been previously used in Bangladesh, has been or is used in an industrial undertaking as referred to in section 46B of the Ordinance and set up in Bangladesh between the 01.07.2014 and 30.06.2019 (both days inclusive), an amount by way of accelerated depreciation allowance shall, subject to some specified conditions set out in subparagraph (2), be allowed and computed as follows, namely :- Conditions to be fulfilled, namely: (a) that the industrial undertaking is owned and managed by a Bangladeshi company, or a body corporate formed in pursuance of an Act of Parliament, having its registered office in Bangladesh; (b) that it belongs to the industrial undertaking as specified in subsection (2) of section 46B; (c) that the particulars required for the pur-	50% of the actual cost of plant and machinery – for the first year in which the undertaking starts commercial production 30% of the actual cost of plant and machinery – for the second year 20% of the actual cost of plant and machinery – for the third year

-pose of entitlement to, or claiming accelerated depreciation allowance under this paragraph have been furnished; and

- (d) that the application in the prescribed form for accelerated depreciation allowance under this paragraph, as verified in the prescribed manner, is made to the Board within six months from the end of the month of commencement of commercial production; and the application is accompanied by a declaration in writing that the undertaking has not been approved for, and that no application in respect of the undertaking has been made or shall be made to the Board for approval of, exemption from payment of tax under section 46B or 46C of this Ordinance for any period.

Note: The machinery or plant on which accelerated depreciation has been allowed under this paragraph shall not be entitled to any other depreciation allowance under this Ordinance.

10.7.3.4 Special Depreciation Allowance (As per Para 8, Third Schedule) –

A ship, plying ordinarily in inland waters being a passenger vessel, or not being a ship ordinarily plying on inland waters, or a fishing trawler registered in Bangladesh, which has been or is brought into use in Bangladesh for the first time on any date between 01.07.1982 and 30.06.1995 (both days inclusive) and in the property of the assessee, special depreciation allowance is allowed and computed as: for the first year 40% of the original cost; for the second year 30% of the original cost; and for the third year 30% of the original cost.

[Note: This special allowance has of no use, as the period has not been extended after 1995.]

SELF REVIEW 10 – 4

1. What is the method of accounting followed in case of (a) income from business or profession? (b) Income of a medical practitioner. 2. What is the basis for charging depreciation of ocean going ships? 3. What are the different types of depreciation allowance?
-

10.7.4 Limitation in respect of Depreciation Allowance (Para 9, Third Schedule) –

- (1) Total of Depreciation Allowance, in no case, will be higher than the original cost;
(2) If the full amount of depreciation allowance cannot be charged due to insufficient profit, it may be set off against profits from any other business; if the allowance is not fully absorbed, it can further be set off from the income of other heads in the same income year. Even if some amount is left unabsorbed, it may be carried forward to the following years for setting off against profits. In case of insufficient profits, the

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allowance should be charged, as it will turn the result as losses that can be carried forward for six consecutive years only whereas unabsorbed depreciation allowance can be carried forward for an indefinite time till the full amount is absorbed.

10.7.5 Amortization of license fees (Para 10A, Third Schedule) –

Where a resident company paid any sum as license fees (Spectrum Assignment Fees, GSM license fees, license acquisition fees or license renewal fees paid by a cellular mobile phone operator or any other license fee, paid by any other company engaged in providing specialized services, if such license is integral to the operation of the company) before or after July 01, 2012 wholly or exclusively for the purpose of obtaining a permission from any government authority applicable for two or more years to run a business, the assessee shall be allowed a deduction of an amount proportionate to such years and such deduction shall continue till the last year of the period for which the license was granted. *Here, the amortization of fees shall be allowed from assessment year 2013-2014.*

Example: A Cellular Mobile Phone Company operating in Bangladesh has paid Tk. 344 crore as license fee to BTRC for 15 years covering a period from 20/12/2005 to 20/12/2020. The company can deduct an amount proportionate to such years (1/15 of 344 crore = Tk. 22,26,66,666) as amortization expense of license fees from 2013-14 assessment year to the assessment year in which the license period will expire. This provision will not be applicable for assessment years prior to 2013-14.

10.8 BALANCING ALLOWANCE, BALANCING CHARGE AND CAPITAL GAIN

Balancing Allowance: If the written down value of any asset exceeds sales proceeds or disposed value, the difference will be treated as balancing allowance and will be treated as loss though this is not allowed in case of furniture.

Balancing Charge: This is the difference between sale proceeds and written down value, provided that such difference does not exceed the difference between sale proceeds and actual costs. This is treated as revenue gain and shown as income in the year when the asset is sold.

Capital Gain: This is the difference between sale proceeds and actual cost. This is shown as income under the head of Capital Gain.

Cost Tk. 80,000	WDV Tk. 50,000	Sale Proceeds Tk. 40,000
Balancing Allowance Tk. 10,000		
Cost Tk. 80,000	WDV Tk. 60,000	Sale Proceeds Tk. 70,000
Capital Gain Nil	Balancing Charge Tk. 10,000	
Cost Tk. 80,000	WDV Tk. 60,000	Sale Proceeds Tk. 90,000
Capital Gain 90,000 – 80,000 = 10,000	Balancing Charge Tk. 30,000 but maximum is Tk. 20,000	
Total Gain = Tk. 30,000	Capital Gain = Tk. 10,000	Balancing Charge = Tk. 20,000

10.9 INVESTMENT ALLOWANCE

In connection with depreciation it can be mentioned that an investment allowance @ 25% for special zone and @20% for other zones will be allowed on plant and machinery on original cost in the first year to encourage industrialization. For ships, investment allowance will also be available @20% in the first year.

10.10 SET OFF AND CARRY FORWARD OF LOSS UNDER THE HEAD INCOME FROM BUSINESS AND PROFESSION [SECTION – 38 & 39]

10.10.1 For Business and Professions other than Speculative Business: According to Section 38 of the ITO, 1984, where for any assessment year the net result of income under the head "Income from business or profession" is a loss to the assessee (except losses from speculation business) and such loss has not been wholly set off against income from other sources (except income from capital gain and income from house property) shall be carried forward to the next following assessment year, and

- (a) it shall be set off against the income of the same business (if any), provided that the business will continue in the said income year.
- (b) If the loss cannot be wholly so set off, the amount of the loss not so set off shall be carried forward to the next assessment year and so on for not more than six successive assessment years.

10.10.2 For Speculative Business: According to Section 39 of the ITO, 1984, where, for any assessment year, the result of any speculation business carried on by the assessee is a loss, it shall be set off only against the income (if any), from any other speculation business carried on by him and assessable for that assessment year. But when such loss is not wholly so set off, the assessee can carry forward that portion of loss not so set off, to the next following assessment year and

- (a) it shall be set off against the income (if any), from any speculation business carried on by him and assessable for that assessment year; and
- (b) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the next assessment year(s) but not more than six successive assessment years.

According to Section 2(61) of the ITO, 1984 "speculation-business" means business in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scripts, but does not include business in which –

- (a) a contract in respect of raw materials or merchandise is entered into by a person in the course of his manufacturing or mercantile business to guard against loss through future price fluctuations for the purpose of fulfilling his other contracts for the actual delivery of the goods to be manufactured or the merchandise to be sold by him;
- (b) a contract in respect of stocks and shares is entered into by a dealer or investor therein to guard against loss in his holdings of stocks and share through price fluctuations; and
- (c) a contract is entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member;

10.11 EXCLUSION FROM INCOME UNDER SIXTH SCHEDULE (PART A)

Incomes from the following heads are excluded from taxable income and thus tax free:

- (a) Dividend income from listed company in Bangladesh is exempted upto Tk. 25,000 (Para 11A)
- (b) Income from gratuity is exempted upto Tk. 2.50 crore (Para 20)
- (c) Any income derived from the business of software development or Nationwide Telecommunication Transmission Network (NTTN) or Information Technology Enabled Services (ITES) for the period from the first day of July, 2008 to the thirtieth day of June, 2024 (Para 33)

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- (d) Any income derived from the export of handicrafts for the period from the first day of July, 2008 to the thirtieth day of June, 2019 (Para 35)
- (e) Income of any private Agricultural College or private Agricultural University derived from agricultural educational activities (Para 37)
- (f) Income derived from any Small and Medium Enterprise (SME) engaged in production of any goods and having an annual turnover of not more than taka 36 lakh (Para 39)
- (g) Cinema Hall or Cineplex has been given exemption facility which starts exhibition between the first day of July, 2012 and thirtieth day of June, 2019 as per the following rules (Para 44):

Area	Total Period Allowed	Percentage of Exemption	
Dhaka and Chittagong	5 Years	First 2 Years	100%
		Next 2 Years	50%
		For Last Year	25%
Outside Dhaka and Chittagong	10 Years	First 3 Years	100%
		Next 3 Years	50%
		Last 4 Years	25%

- (h) Exemption facility for Production of rice bran oil and commenced commercial production has been given up to 2019 as per the following rules (Para 45):

Area	Total Period Allowed	Percentage of Exemption	
Dhaka and Chittagong	5 Years	First 2 Years	100%
		Next 2 Years	50%
		For Last Year	25%
Outside Dhaka and Chittagong	10 Years	First 3 Years	100%
		Next 3 Years	50%
		Last 4 Years	25%

- (i) Income of an assessee donated in an income year by a crossed cheque or bank transfer to any girls' school or girls' college approved by the Ministry of Education of the government (Para 49)
- (j) Income of an assessee donated in an income year by a crossed cheque or bank transfer to any Technical and Vocational Training Institute approved by the Ministry of Education of the government (Para 50)
- (k) Income of an assessee donated in an income year by a crossed cheque or bank transfer to any national level institution engaged in the Research & Development (R&D) of agriculture, science, technology and industrial development (Para 51)
- (l) Any income, not being interest or dividend classifiable under the head —Income from other sources, received by any educational institution, if it -
 - i) is enlisted for Monthly Pay Order (MPO) of the Government;
 - ii) follows the curriculum approved by the Government;
 - iii) is governed by a body formed as per Government rules or regulations (Para 52)
- (m) Any income, not being interest or dividend classifiable under the head —Income from other sources, received by any public university or any professional institute established under any law and run by professional body of Chartered Accountants or Cost and Management Accountants or Chartered Secretaries (Para 53)

SPECIMEN FORM OF “INCOME FROM BUSINESS OR PROFESSION”

Name of Assessee:

Assessment Year: 2016 – 2017; Income Year: 2015 – 2016

Computation of Total Income

	<u>Tk.</u>
Net Income as per Profit and Loss Account	XX
Add: Expenses that are not allowed (made debited in p/l acc.)	XX
Add: Income under the head of Business and Profession that are not included earlier	XX
Less: Expenses that are allowed (not debited in p/l acc)	<u>XX</u>
Total Income	XX
Less: Income that are not from business or profession (already credited in p/l acc.)	<u>XX</u>
Taxable Income from business or profession	<u><u>XX</u></u>

Illustration 10 – 1:

Which of the following expenses are admissible and up to what extent?

1. Research expense Tk. 50,000 for the period. Tk. 35,000 of this is capital expenditure in nature.
2. Annual subscription of Tk. 50,000 is paid to the Trade Body as a registered member.
3. Loan amounting to Tk. 12,000 is not recoverable and has actually been written off.
4. Bad debt amounting to Tk. 10,000 has been recovered that was written off as irrecoverable in the last year.
5. Provision for doubtful debt has been made @10% on the total amount of outstanding loan.
6. Amount transferred to Special Reserve Fund Tk. 15,000. Total income for the year Tk. 100,000. Previous balance of Special Reserve was Tk. 85,000 and the capital outstanding is Tk. 1,000,000.
7. Depreciation charged on the Building owned by the business @ 10% assuming a 10 years life on straight-line basis.
8. Salary amounting to Tk. 300,000 paid for the year without deducting tax at sources.
9. Payment for perquisites totals Tk. 500,000 for the year.
10. Income for the year is Tk. 1,440,000 after charging entertainment expenditure for Tk. 60,000.

Solution 10 – 1:

1. Research expenditure, whether revenue or capital in nature, is allowable to the full amount. Ref: U/s- 29 (xix)(xx)
2. The expense is admissible to the full extent provided that the trade organization falls within the meaning of the Trade Organizations Ordinance, 1961. Ref: U/s – 29 (xxvi)
3. This is fully admissible as has already been established as irrecoverable. Ref: U/s – 29(xv)
4. The recovered amount will be considered as income for the year as it was charged as expense last year that is not an expense.
5. This is not admissible provided that the company is not a banking company. Ref: U/s – 29 (xviiiia) (xviiiiaa)
6. Maximum 10% of total income can be transferred to such special reserve provided that the total amount of special reserve does not exceed the paid up share capital. Thus, allowable transfer to Special Reserve Fund will be Taka 10,000. (10% of Taka 100,000). Such transfer will result Taka 95,000 (Tk. 85,000 + Tk. 10,000) aggregated amount for the reserve fund, which is far lower than the amount of, paid up capital (Taka 1,000,000) Ref: U/s – 29 (v).
7. Accounting depreciation and tax depreciation differs significantly. As per ITO 1984, building will be depreciated as per the rates stated in the Third Schedule of the Ordinance. Thus,

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accounting depreciation will be added back to compute income before charging depreciation and then tax depreciation as computed by using the rates given in the Third Schedule would be deducted as allowable deduction. Ref: U/s – 29 (viii)

8. Salary is an inadmissible expense, as tax is not deducted at source. Ref: U/s – 30(a).
9. Maximum expense that can be charged against perquisites is Taka 475,000. So, up to taka 475,000 can be shown as perquisites to be allowed. Ref: U/s – 30(e)
10. The amount of income before charging entertainment expenditure is Tk. 15,00,000. Now, for the first Taka 1,000,000 the rate for the expense is 4% and for the rest Taka 500,000 the rate is 2%. So the allowable entertainment expense would be up to Taka 50,000 (4% of Taka 1,000,000 + 2% of Taka 500,000). Ref: Under Rule 65

Illustration 10 – 2:

State with reasons whether the following expenses are fully or partly admissible as deduction while computing income from business or profession:

1. Stock-in-trade was lost in fire, amounting to Tk. 12,000 and was debited to P/L Account.
2. Amount spent on a successful suit filed against a person for infringing trade mark of the assessee Tk. 10,000;
3. Interest paid to bank Tk. 15,000 in connection with overdraft obtained for paying dividend;
4. Overseas traveling expense Tk. 50,000; The amount of disclosed turnover and disclosed net profit is Tk. 40,00,000 and Tk. 20,00,000 respectively;
5. Incentive bonus Tk. 3,00,000; The amount of disclosed turnover and disclosed net profit is Tk. 40,00,000 and Tk. 20,00,000 respectively;
6. Salary paid to two employees @ Tk. 20,000 per month; one is paid in cash and another through bank transfer.
7. Salary expense of a firm Tk. 100,000 of which Tk. 40,000 is paid to a partner as salary;
8. Royalty paid Tk. 2,00,000; The amount of disclosed turnover and disclosed net profit is Tk. 40,00,000 and Tk. 20,00,000 respectively;
9. Installation cost of an IPS, Tk.50,000;
10. Penalty paid for violating income tax law Tk. 25,000.
11. Repair expense of the hired premises paid Tk. 50,000. The building is used both for office and residence at an equal proportion.
12. Insurance premium paid Tk. 25,000, of which Tk. 5,000 is owner's life insurance premium.

Solution 10 – 2:

1. Loss of stock-in-trade is an admissible expense and is allowed to the full amount.
2. Litigation / legal expense is an admissible expense and is allowed to the full amount as it is spent for protecting business interest.
3. Interest expense on overdraft taken to meet business expenses is admissible expense and allowed to the full amount.
4. Overseas traveling expense is admissible up to 1.25% of the disclosed turnover, so here of total Tk. 50,000 admissible amount is also Tk. 50,000 (1.25% of Tk. 40,00,000. Ref. Sec 30(k)
5. Incentive bonus expense is admissible up to 10% of the disclosed net profit, so here of total Tk. 300,000 admissible amount is up to Tk. 200,000 (10% of Tk. 20,00,000) and rest of Tk. 100,000 is inadmissible. Ref. Sec 30(j)
6. Of total salary expense Tk.480,000, Tk. 240,000 is admissible as it has been paid through bank transfer and rest of Tk. 240,000 is inadmissible as it has been paid in cash. Ref. Sec 30(i)
7. Of total salary expense Tk.100,000, Tk. 60,000 is admissible as it has been paid to employees and rest of Tk. 40,000 is inadmissible as it has been paid to a partner of the firm. Ref. Sec 30(b)

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8. Royalty is admissible up to 8% of the disclosed net profit, so here of total Tk. 200,000 admissible amount is up to Tk. 160,000 (8% of Tk. 20,00,000) and rest of Tk. 40,000 is inadmissible. Ref. Sec 30(h)
9. Not admissible, as it is a capital expenditure.
10. Not admissible as the penalty is imposed for violating laws.
11. Of total repair expense of Tk. 50,000, Tk. 25,000 is admissible which is for the proportion of office use and the rest of Tk. 25,000 is inadmissible as half proportion of the house has been used for business purpose.
12. Of total insurance premium Tk. 20,000 is admissible which is for the protection of business interest and the rest of Tk. 5,000 is inadmissible it is given for personal interest of the owner.

Illustration 10 – 3:

The Profit and Loss Account of Mr. X's sole-trader ship business results net income of Taka 800,000 for the accounting year ended on June 30, 2017 as follows:

X Traders			
Profit and Loss Account			
For the year ended on June 30, 2017			
Debit	Taka	Credit	Taka
Salary	460,000	Gross Profit	2,000,000
Commission	25,000	Interest on Securities	100,000
Rent of Premises	100,000	Interest on bank Deposit	25,000
Fund Embezzlement	25,000		
Donations	200,000		
Bad debt	50,000		
Insurance Premium	47,000		
Depreciation Expense –Furniture	35,000		
Provision for income tax	45,000		
Repair expense	20,000		
License renewal fee	5,000		
Penalty and Fine	73,000		
Bonus	100,000		
Royalty	100,000		
Interest on Bank Loan	30,000		
Household expenses	10,000		
Net Profit	800,000		
	<u>2,125,000</u>		<u>2,125,000</u>

Other Information: (a) Salary includes Taka 125,000 paid to an employee during December 1, 2016 to June 30, 2017 who failed to submit return within tax day nor get extension; (b) Fund embezzlement occurred after office hour; (c) One fourth of the premise is used as residence by X; (d) Donations include Taka 150,000 paid to a charitable hospital that is approved under Paragraph 11A of Part B of the Sixth Schedule of ITO, 1984; (e) Tk. 7,000 of insurance premium is the payment for policy purchased in the owner's name; (f) Tax depreciation amounts to Taka 50,000; (g) Of repair expense Tk. 5,000 is spent for the space used for residential purpose; (h) Commission includes Tk. 10,000 paid to shareholder director.

Required: Compute the income from business or profession for the year ended on June 30, 2017.

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Solution 10 – 3:

Assessee: Mr. X

Income Year: 2016 – 17

Assessment Year: 2017 – 18

Income from Business and Profession:	Taka	Taka
Profit as per P/L Account		800,000
Add: Inadmissible Expenses		
(1) Salary	125,000	
(2) Commission	10,000	
(3) Rent (100,000 ÷ 4)	25,000	
(4) Fund Embezzlement	25,000	
(5) Donations	50,000	
(6) Life insurance premium	7,000	
(7) Depreciation Expense (to be treated later on)	35,000	
(8) Provision for Income Tax	45,000	
(9) Repair expense	5,000	
(10) Penalty and fine	73,000	
(11) Bonus	20,000	
(12) Royalty	36,000	
(13) Household expenses	<u>10,000</u>	466,000
		1,266,000
Less: Depreciation Expense (As per ITO)		<u>50,000</u>
Less: Non-Business Income		1,216,000
(1) Interest on Securities	100,000	
(2) Interest on Bank deposit	<u>25,000</u>	125,000
Taxable Income from Business or Profession		<u>1,091,000</u>

Notes: (1) Salary is an inadmissible expense as the person failed to file return within tax day. (2) As fund embezzlement occurred after office hour, this is not allowed. (3) Donations of Tk. 50,000 are not made to the approved organization and such inadmissible. (4) Personal life insurance premium is inadmissible. (5) Rent and repair expense paid for the residential proportion is inadmissible. (6) Royalty is admissible up to an amount equal to 8% of the disclosed net profit i.e. 8% of Tk. 800,000; the rest of the amount is inadmissible. (7) Bonus is admissible up to an amount equal to 10% of the disclosed net profit i.e. 10% of Tk. 800,000; the rest of the amount is inadmissible. (8) Commission paid to shareholder director is not admission deduction.

Illustration 10 – 4:

The Income Statement with selective notes of ABC Ltd for the year ended on 31.12.16 is as under:

ABC Ltd

Income Statement

For the year ended on December 31, 2016

	Taka
Net Sales	1,000,000
Less: Cost of Goods Sold	<u>536,000</u>
Gross Profit	464,000
Add: Gain on Sale of Furniture	<u>45,000</u>
	509,000
Less: Administrative and Selling & Distribution Expenses	<u>209,000</u>
Net Profit	<u>300,000</u>

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Compute the income from business or profession of ABC Ltd for the year ended on December 31, 2016 based on the given other information:

- a) The Cost of the Furniture was Tk. 82,000 and the amount of accumulated depreciation up to the date of sale was Tk. 34,000 and sold for Tk. 93,000.
- b) Tax depreciation amounts is Tk. 25,000; Administrative and Selling & Distribution Expenses includes: Salaries and Wages Tk. 40,000; Supplies Expense Tk. 11,000; Rents, Rates & Taxes Tk. 10,000; Provision for Doubtful Debts Tk. 14,000; Legal Charges Tk. 11,000; Underwriting Commission Tk. 13,000; Repair Expenses Tk. 10,000; Incentive Bonuses Tk. 40,000; Advertising expense (free sample distribution Tk. 16,000) Tk. 20,000; Audit Fees Tk. 10,000; Depreciation Expense Tk. 18,000; and Overseas traveling expense Tk. 12,000, which is incurred for giving services to government where overseas travelling is a key requirement for the service.
- c) Legal expenses have been incurred in defending an action of infringement of its trademarks.

Solution 10 – 4:

Assessee: ABC Ltd		
Income Year: 2016 – 2017		
Assessment Year: 2017 – 2018		
Income from Business and Profession:	Taka	Taka
Net Profit as per Income Statement		300,000
Add: Inadmissible Expenses		
(1) Provision for Doubtful Debts	14,000	
(2) Underwriting Commission	13,000	
(3) Incentive Bonuses	10,000	
(4) Free sample distribution	11,000	
(5) Depreciation Expenses (to be treated later on)	<u>18,000</u>	<u>66,000</u>
		366,000
Less: Depreciation Expense (As per ITO)		<u>25,000</u>
Less: Non-Business Income		341,000
(1) Capital Gain		<u>11,000</u>
Taxable Income from Business or Profession		<u>330,000</u>

Notes: (1) Underwriting commission is of capital nature and not admissible. (2) Incentive bonuses up to 10% of disclosed net profit i.e. 10% of Tk. 300,000 is admissible expense. (3) Free sample distribution is admissible up to 0.5% of a turnover up to Tk. 5 crore. So, the admissible amount is 0.5% of Tk. 1,000,000. (4) Overseas traveling expense is admissible as it is incurred to provide services to government where overseas travelling was a key requirement (5) Total gain on sale of furniture amounts to Taka 45,000, which includes both capital gain and balancing charge as sale proceeds, is higher than the initial costs of the furniture. Thus capital gain in this case will be Taka 11,000 (Taka 93,000 – Taka 82,000) that will be shown under Capital Gain Head.

Illustration 10 – 5:

The Trading and Profit & Loss Account of Mr. X & Associates for the year ended 31.12.16 is:

Mr. X and Associates			
Trading & Profit and Loss Account			
For the year ended on December 31, 2016			
Debit	Tk.	Credit	Tk.
Opening Stock	100,000	Sales	1,500,000
Purchase	600,000	Closing stock	200,000
Wages	56,000		

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Depreciation on Machinery	13,000		
Power and Fuel	11,000		
Gross Profit (Carried Down)	920,000		
	<u>1,700,000</u>		<u>1,700,000</u>
Salaries	75,000	Gross Profit (Brought Down)	920,000
Rent, Rates and Taxes	22,000	Bad Debt Recovered	27,000
Annual Membership Fee	50,000	Interest and Discount Received	25,000
Legal Expenses	12,000	Interest on Debenture	80,000
Underwriting Commission	36,000	Dividend on Share	60,000
Purchase of Trademarks	120,000	Commission	28,000
Bad Debts	24,000		
Accounting Fees	42,000		
Depreciation – office building	37,000		
Fines and Penalties	12,000		
Donation to Flood Relief Fund	60,000		
Gratuity to Employees	80,000		
Advance Income Tax	28,000		
Loss on sale of office furniture	12,000		
Dowry paid to the Daughter	50,000		
Miscellaneous Expense	40,000		
Net Profit	440,000		
	<u>1,140,000</u>		<u>1,140,000</u>

Other information: (1) Salaries include Tk. 20,000 as salaries paid to the owner. (2) Recovered amount of bad debt was previously allowed as bad debt expense. (3) Legal expense is incurred for filing and continuing a case against competitor for protecting the interest of the business. (4) Fines and penalties were due to avoidance of tax payment at an earlier period. (5) Payment to purchase the trademark is given in cash. (6) Miscellaneous expense includes Tk. 25,000 paid to a commission agent of the company who doesn't own a 12 digit TIN. (7) Tax depreciation was calculated as: Depreciation on Machinery Tk. 25,000 and Depreciation on Office Building Tk. 30,000.

Required: Compute the income from business or profession and total taxable income of Mr. X and Associates for the year ended on December 31, 2016.

Solution 10 – 5:

Assessee: Mr. X and Associates

Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

Income from Business and Profession:	Tk.	Tk.
Net Profit as per Profit and Loss Account		440,000
Add: Inadmissible Expenses		
(1) Salaries	20,000	
(2) Underwriting Commission	36,000	
(3) Purchase of Trademarks	120,000	
(4) Fines and Penalties	12,000	
(5) Dowry paid to the Daughter	50,000	
(6) Advance Income Tax	28,000	
(7) Depreciation Expenses (to be treated later on)		

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On Machinery	13,000	
On Office Building	37,000	
(6) Miscellaneous Expense	25,000	341,000
		<u>781,000</u>
Less: Depreciation Expense (As per ITO)		
On Machinery	25,000	
On Office Building	30,000	55,000
Less: Non-Business Income		726,000
(1) Interest on Debenture	80,000	
(2) Dividend on Share	60,000	140,000
Taxable Income from Business or Profession		<u>586,000</u>
Add: Non-business Income		
Income from Interest on Securities:		
Interest on Debenture		80,000
Income from Other Sources		
Dividend on Share		60,000
Total		<u>726,000</u>

Illustration 10 – 6:

From the following receipts and payments a/c of Mr. Azharuddin, a tax consultant, calculate income from profession:

Receipt and Payment A/c For the year ended on 30th June, 2017

Receipts	Tk.	Payments	Tk.
Balance B/D	350,000	Office and administrative exp.	60,000
Fees from Client	150,000	Salary to staff	70,000
Presents from Client	40,000	Repairs	8,000
Winning from lotteries	28,000	Interest on loan for business	12,000
Rent from let out property	75,000	Income tax	6,000
Share of profit from a firm	12,500	Purchase of car (01.07.14)	150,000
		Balance c/d	3,49,500
	<u>655,500</u>		<u>655,500</u>

Solution 10 – 6:

Assessee: Mr. Azharuddin

Income Year: 2016 – 17; Assessment Year: 2017 – 18

Income from Profession:	Taka	Taka
Professional receipts:		
Fees from client	150,000	
Present from client	<u>40,000</u>	
Less: Professional payments		190,000
Office and admin exp.	60,000	
Staff salary	70,000	
Repairs	8,000	
Interest on loan for business	12,000	
Depreciation of car @20% [as per Para 3, 3 rd schedule]	<u>30,000</u>	180,000
Total		<u>10,000</u>

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Illustration 10 – 7:

Following is the income and expenditure account of Razib & Co., chartered accountants for the year ending 30th June, 2017. Calculate income from profession considering: Tk. 5,000 can be claimed as depreciation for office assets as per income tax provision.

Income and Expenditure A/c For the year ended on 30th June, 2017

Expenditure	Tk.	Incomes	Tk.
Charity and donation	100,000	Audit fee	300,000
Subscription to ICAB journals	2,000	Examiner fee	25,000
Institute fee	4,000	Fee for other accounting work	40,000
Office rent	5,000	Dividend from ICB Unit Fund	35,000
Drawings	50,000		
Electricity bill	9,000		
Salary to trainee	20,000		
Net income	210,000		
	<u>400,000</u>		<u>400,000</u>

Solution 10 – 7:

Assessee: Razib & Co.

Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

Income from Profession:	Tk.	Tk.
Professional receipts:		
Audit fees	300,000	
Examiner fees	25,000	
Fees for other accounting work	<u>40,000</u>	365,000
Less: Professional payments		
Subscription to journal	2,000	
Institute fee	4,000	
Office rent	5,000	
Bill for electricity	9,000	
Salary to trainee	20,000	
Depreciation	<u>5,000</u>	45,000
Total		<u>320,000</u>

Illustration 10 – 8:

Dr. Arup Ratan is a renowned medical practitioner (Dentist) who gives the following receipts and payments account for the year ending on 30th June, 2017. Calculate his income from profession:

Receipt and Payment A/c For the year ended on 30th June, 2017

Receipts	Tk.	Payments	Tk.
Balance B/D	75,000	Rent to clinic	15,000
Consulting Fees from Patients	45,000	Purchase of professional books	20,000
Visiting fees	20,000	Purchase of medicine	15,000
Sale of medicines	90,000	Purchase of Motor car	75,000
Gifts and presents from clients	10,000	Income tax	3,000

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Interest from post office savings	12,000	Purchase of surgical equipments	15,000
Winning from lottery	150,000	Gift to wife	5,000
Dividends	10,000	Balance c/d	264,000
	<u>412,000</u>		<u>412,000</u>

Additional information: (1) One-third portion of the car is used for personal purpose; (2) Date of purchase: Professional book & Surgical equipments on 1st July, 2014 and Car on 1st January, 2014. (3) Depreciation is to be charged as (a) books @ 30%, (b) car @ 20%, and (c) surgical equipments @ 20% as per Para 3 of Third Schedule; (4) Closing stock of medicine Tk. 4,000.

Solution 10 – 8:

Assessee: Mr. Arup Ratan Chowdhury

Income Year: 2016 – 2017

Assessment Year: 2017 – 2018

Income from Profession:	Taka	Taka	Taka
Professional receipts: Consulting fees		45,000	
Visiting fees		20,000	
Sale of medicine		90,000	
Gifts and presents from clients		<u>10,000</u>	165,000
Less: Professional payments			
Rent to clinic		15,000	
Depreciation: On books (20,000 × 30%)	6,000		
On car (75,000 × 20%)	15,000		
On equipments (15,000 × 20%)	<u>3,000</u>	24,000	
Purchase of medicine	15,000		
Less: Closing stock	<u>4,000</u>	<u>11,000</u>	50,000
Taxable Income from Profession			<u>115,000</u>

Illustration 10-9:

Mr. Jamilur Rahman is a Cost and Management Accountant. He maintained books of accounts and the following is his Income and Expenditure Account for year ended on 30th June, 2017.

Dr.			Cr.
Particulars	Taka	Particulars	Taka
Salary to Staff	3,20,000	<u>Professional fees:</u>	
Office Expenses	48,000	From cost audit	3,00,000
Office Rent (without TDS)	80,000	From Tax practice	2,00,000
Entertainment	10,000	From accounts preparation	1,50,000
Loan to client	40,000	Dividend from private Ltd.	
Purchase of professional books	12,000	Co.	50,000
Traveling Expenses	25,000	Interest on bank deposit	40,000
Purchase of one computer	20,000	Rental income from sub-let of	
Loss on sale of shares of listed co.	18,000	hired premises	36,000
Misc. Expenses	10,000		
Net profit	1,93,000		
	<u>7,76,000</u>		<u>7,76,000</u>

Compute total income and tax to be paid by Mr. Rahman for the assessment year 2017-18.

Chapter – 10: Income from Business or Profession

Solution 10 – 9:

Assessee: Mr. Jamilur Rahman

Income year: 2016 – 2017

Assessment year: 2017 – 2018

Computation of total taxable income

	Tk.	Tk.	Tk.
Income from "Business or Profession Section – 28			
Net profit as per P& L A/c		193,000	
(less) Non business income show in the credit in the credit side			
Dividend from Private Ltd. Company	50,000		
Interest on bank deposit	40,000		
Rental income from sub-let	<u>36,000</u>		
		<u>126,000</u>	
		67,000	
(add) Entertainment for separate consideration as per rule - 65		<u>10,000</u>	
		77,000	
(add) <u>Inadmissible expenses</u>			
(1) <u>Loan to client Tk. 40,000</u>			
Disallowed fully as it is not an business expenditure so not allowable as per section -29	40,000		
(2) <u>Purchase of professional books Tk. 12,000</u>			
Disallowed fully as it is not an expenditure rather asset to business so not allowable as per section-29	12,000		
(3) <u>Purchase of one computer Tk. 20,000</u>			
Disallowed fully as it is not an expenditure rather asset to business (assuming). So not allowable as per section-29	20,000		
(4) <u>Less on sale of shares of listed co. Tk. 18,000</u>			
Disallowed fully as it is not as business expenditure so not allowable as per section-29	<u>18,000</u>		
		<u>90,000</u>	
		167,000	
(Less) Depreciation: As per 3 rd Schedule			
On Professional boles @ 30%(12000x30%)	3,600		
On Computer @30% (20,000x30%)	<u>6,000</u>	9,600	
		157,400	
(Less) Entertainment as per rule – 65 [157,400x4%]		<u>6,296</u>	
			151,104
Income from other sources" Section-33			
Dividend from Private Ltd Com.	50,000		
(Less) Exempted as per 6 th Schedule Part A Part 11A	<u>25,000</u>	25,000	
Interest on Bank deposit		40,000	
Rental income from sub –let		<u>36,000</u>	<u>101,000</u>
			<u>252,104</u>

Computation of tax liability:

	Rate	Tax
On the first Tk. 250,000	0%	Nil
On the balance Tk. 2,104	10%	210
Gross liability		210
Minimum Tax		5,000
Less: TDS		
1. On Bank Interest (Tk. 40,000x 10%)	4,000	
2. On professional fee (650,000 x10%)	65,000	
3. On cash dividend (50,000 x 10%)	5,000	
		74,000
Refund		<u>69,000</u>

KEY POINTS

- Business includes
 - ⇒ any trade, commerce or manufacture or
 - ⇒ any adventure or concern in the nature of trade, commerce or manufacture and
 - ⇒ Profession includes a vocation.
- 40% of income from tea garden, rubber garden and such nature will be considered as Income from business or profession and the rest as income from agriculture.
- The assessee is free to select his own accounting system.
- Entertainment expenditure is an admissible expense to the extent of
 - ⇒ 4% on the first Tk. 10 lakh of income, profits and gains and
 - ⇒ 2% on the rest.

On the other hand income tax, contribution to unrecognized provident fund, fund embezzlement by employees after office hour etc are inadmissible expenses.
- Full depreciation is allowed in the purchase year and none is allowed in the year of disposal of assets.
- Sale value exceeding original cost is capital gain and should be taxed under that the head 'Income from capital gain'.
- Depreciation base in every case is the written down value (WDV) except in case of accelerated depreciation and on ships or vessel when original cost is the depreciation base.
- Any government subsidy or any grant received for purchasing assets or any foreign currency fluctuation gain (loss), when the asset is imported, should be adjusted accordingly to calculate the accurate costs.
- Sale value of motor vehicles costing more than taka ten lakh should be scaled down in proportion to ten lakh and also the proportionate sale value should be considered in case of assets used partially for business and profession and partially for personal purposes
- Depreciation is allowed on cost but investment allowance is allowed over and above 100 cost of qualifying assets.

Multiple choice questions:

1. As per rule, balancing allowance may exist if WDV is –
 - (a) Higher than sale proceeds
 - (b) Lower than sale proceeds
 - (c) Equal to sale proceeds
 - (d) Equal to original costs
2. What percentage of rubber garden income shall be considered as income from business or profession –
 - (a) 25%
 - (b) 30%
 - (c) 40%
 - (d) 60%
3. Which of the following is an admissible expense under the head income from business or profession –
 - (a) Rent of premises where the assessee is the owner of the premises
 - (b) Bonus to employee in addition to employment rule
 - (c) Depreciation on scientific assets where capital expenditure on such assets were admissible
 - (d) Accounting and audit fees
4. Which of the following is not an admissible expense under the head income from business or profession –
 - (a) Salaries paid to the employees without deducting taxes at source
 - (b) Compensation to an employee for injury or accident met while on duty
 - (c) Production, transportation and marketing expenses of inventories
 - (d) Cost of borrowed funds in terms of interest
5. Which of the following statement is false –
 - (a) Renewal fees of license is an admissible expense
 - (b) Loss on foreign exchange translation is an inadmissible expense
 - (c) Royalty paid against patent or copy right is an admissible expense
 - (d) Reserve for bad debt and reserve for discount is an inadmissible expense
6. Which of the following statement is true –
 - (a) Personal expenses of assessee is admissible
 - (b) Expenditures incurred for issuing of shares is admissible
 - (c) Income tax is inadmissible
 - (d) leave allowance given to employees is inadmissible
7. Depreciation allowance is to be calculated on the original cost of the asset for which type of following assets –
 - (a) Ocean going ship
 - (b) Furniture and fittings
 - (c) Motor vehicle
 - (d) Building
8. Rate of depreciation admissible for factory building is –
 - (a) 10%
 - (b) 16%
 - (c) 20%
 - (d) 24%

9. Which of the following statement is true in connection to special depreciation –
 (a) First year depreciation rate is 60%
 (b) Second year depreciation rate is 40%
 (c) The concept is no more in use
 (d) None of the above
10. If WDV is more than sales proceeds, the difference is called –
 (a) Balancing charge
 (b) Balancing allowance
 (c) Capital gain
 (d) Revenue gain

Identify the following statements as True (T) or False (F):

1. Sales tax, value added tax are not admissible expense.
2. Loss on sale of capital asset is an inadmissible expense.
3. Total of Depreciation Allowance, in no case, will be higher than the original cost.
4. Allowable depreciation on furniture and fittings is 10% on original cost.
5. The assessee is free to select his own accounting system.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 10 – 1:** Explain chargeability under the head as per section 28.
- Question 10 – 2:** What are allowable deductions at the time of computing taxable income under the head 'income from business or profession'?
- Question 10 – 3:** List down the expenses that are not admissible under the head.
- Question 10 – 4:** Explain different methods of accounting for calculating income from business or profession.
- Question 10 – 5:** What are different types of depreciation allowance? Explain each of the depreciation allowances with the rates and assets concerned.
- Question 10 – 6:** Compare balancing charge, balancing allowance and capital gain.
- Question 10 – 7:** Explain accelerated depreciation. How it differs from accounting sense of accelerated depreciation method of charging depreciation?
- Question 10 – 8:** Write short note on:
 (a) Set off of losses
 (b) Carry forward of losses
 (c) Unabsorbed depreciation
 (d) Speculation business

Problem 10 – 1:

Which of the following expenses are admissible and up to what extent?

- a. Research expenses for the year Tk. 20,000. Full of this amount is revenue expense in nature.
- b. Annual subscription amounting to Tk. 45,000 is paid to Bangladesh Medical Association as a registered member thereof.
- c. Loan amounting to Taka 20,000 has actually been written off though it was not established as such in the last year and thus was not allowed then. But in this year, it has been established that the loan is not recoverable.
- d. Bad debt amounting to Tk. 15,000 has been recovered that was written off as irrecoverable in the last year in satisfaction of the DCT.
- e. Provision for doubtful debt has been made @15% on the total amount of outstanding loan.

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- f. Amount transferred to Special Reserve Fund Taka 25,000. Total income for the year amounts to Taka 200,000. Previous balance of Special Reserve Fund amounts to Taka 85,000 and the amount of capital outstanding is Taka 100,000.
- g. Depreciation charged on the machinery owned by the business @ 10% assuming a 5 years life on straight-line basis. The cost of the machinery was Taka 50,000.

Problem 10 – 2:

The Profit and Loss Account of Mr. Y results net income of Taka 1,280,000 for the accounting year ended on June 30, 2017 as follows:

Mr. Y Profit and Loss Account For the year ended on June 30, 2017			
Debit	Taka	Credit	Taka
Salary	1,000,000	Gross Profit	3,000,000
Rates and Taxes	40,000	Interest on Less Tax	150,000
Rent of Premises	400,000	Govt. Securities	40,000
Fund Embezzlement	50,000	Bad Debt Recovered	
Donations	200,000	(disallowed earlier)	10,000
Bad debt	80,000		
Fire Insurance Premium	50,000		
Depreciation Expense –Machinery	40,000		
Provision for bad & Doubtful Debt	60,000		
Net Profit	1,280,000		
	<u>3,200,000</u>		<u>3,200,000</u>

Other Information:

- (1) Salary includes Taka 300,000 paid as perquisites for the year.
- (2) Fund embezzlement occurred during office hour on account of theft by an employee.
- (3) Donations are made to approved organizations under Paragraph 11B of Part B of the Sixth Schedule of ITO, 1984.
- (4) Tax depreciation amounts to Taka 50,000.

Required: Compute the income from business or profession for the year ended on June 30, 2017.

Problem 10 – 3:

The Income Statement with selective notes thereon of XYZ Ltd for the year ended on December 31, 2016 is as under:

XYZ Ltd Income Statement For the year ended on December 31, 2016	
	Taka
Net Sales	10,000,000
Less: Cost of Goods Sold	6,800,000
Gross Profit	3,200,000
Add: Gain on Sale of Building (Note 1)	1,200,000
	<u>4,400,000</u>
Less: Administrative and Selling & Distribution Expenses (Note 2)	3,400,000
Net Profit	<u>1,000,000</u>

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Other information:

- (1) The Cost of the Building was Taka 8,000,000 and the amount of accumulated depreciation up to the date of sale was Taka 2,700,000 and sold for Taka 6,500,000.
- (2) Administrative and Selling & Distribution Expenses total Tk. 3,400,000 includes:

Salaries and Wages	Tk. 1,562,000	Provision for Bad and Doubtful Debt	Tk. 60,000
Fines and Penalties	125,000	Underwriting Commission	120,000
Rents, Rates & Taxes	80,000	Overseas Traveling Expense	1,100,000
Legal Charges	37,000	Cost of Issuing Shares	100,000
Incentive Bonuses	40,000	Depreciation Expense	116,000
Audit Fees	60,000		

- (3) Salary and wages includes Taka 180,000 as payment to employees for the year who failed to submit return within tax day and Taka 520,000 as payment classified as perquisites.
- (4) The fines and penalties are charged by a local court for involvement in illegal business transactions.
- (5) Oversees travelling expenses incurred for providing services to government where overseas travelling was a key requirement for the service.
- (6) Legal charges have been incurred for defending a suit for alleged breach of a trading contract.
- (7) Tax depreciation amounts to be Taka 80,000.

Required: Compute the income from business or profession for the year ended December 31, 2016.

Problem 10 – 4:

The Trading and Profit & Loss Account of Mr. Z and Associates for the year ended 31.12.16 is:

Mr. Z and Associates Trading & Profit and Loss Account For the year ended on December 31, 2016

Debit	Taka	Credit	Taka
Opening Stock	200,000	Sales	2,300,000
Purchases	800,000	Closing Stock	200,000
Wages	80,000		
Depreciation on Equipment	20,000		
Transportation In	10,000		
Gross Profit (Carried Down)	1,390,000		
	<u>2,500,000</u>		<u>2,500,000</u>
Salaries	280,000	Gross Profit (Brought Down)	1,390,000
Rent, Rates and Taxes	60,000	Bad Debt Recovered	30,000
Annual Membership Fee	50,000	Interest and Discount Received	25,000
Legal Expenses	26,000	Interest on Debenture	80,000
Brokerage Fees	45,000	Dividend on Share	60,000
Purchase of Copyright	200,000	Commission	28,000
Bad Debts	60,000	Income from House Property	180,000
Audit Fees	50,000		
Depreciation – office furniture	60,000		
Fines and Penalties	20,000		
Donation to Aga Khan Dev. Network	60,000		

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Payment from Pension Fund	280,000	
Tax Paid on Last Year's Assessment	30,000	
Loss on sale of furniture	10,000	
Payment to Daughter	50,000	
Miscellaneous Expense	60,000	
Net Profit	452,000	
	<u>1,793,000</u>	<u>1,793,000</u>

Other information:

- (1) Salaries are paid without deducting tax at sources.
- (2) Recovered amount of bad debt was previously disallowed as bad debt expense.
- (3) Legal expense is incurred for filing and continuing a case against competitor for protecting the interest of the business.
- (4) Fines and penalties were due to the noncompliance of govt. rules and regulations.
- (5) Miscellaneous expense includes Taka 40,000 that was incurred for payment to tax consultant who doesn't own 12 digit TIN.
- (6) Tax depreciation was:

Depreciation on Equipment	Tk. 30,000
Depreciation on Office Furniture	Tk. 50,000.

Required: Compute the income from business or profession and total taxable income of Mr. Z and Associates for the year ended on December 31, 2016.

Problem 10 – 5:

From the following receipts and payments a/c of Mr. Arif Khan, an income tax practitioner, calculate income from profession:

Receipt and Payment A/c For the year ended on 30th June, 2017

Receipts	Tk.	Payments	Tk.
Balance B/D	350,000	Office and administrative exp.	60,000
Fees from Client	150,000	Salary to staff	70,000
Presents from Client	40,000	Repairs	8,000
Interest on Bangladesh savings certificate	22,500	Interest on loan for business	12,000
Rent from let out property	75,000	Income tax	6,000
Share of profit from a firm	12,500	Purchase of car (01.01.14)	150,000
	<u>650,000</u>	Balance c/d	<u>344,000</u>
			<u>650,000</u>

Problem 10 – 6:

Following is the income and expenditure account of Hasan & Co., cost and management accountants for the year ending 30th June, 2017.

Expenditure	Tk.	Incomes	Tk.
Charity and donation	100,000	Audit fee	300,000
Subscription to ICMAAB journals	2,000	Examiner fee	25,000
Institute fee	4,000	Fee for other accounting work	40,000

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Rent expense	50,000	Dividend from ICB Unit Fund	45,000
Drawings	5,000		
Electricity bill	9,000		
Salary to trainee	20,000		
Repair expense	10,000		
Net income	210,000		
	<u>400,000</u>		<u>400,000</u>

Additional Information:

1. Tk. 5,000 can be claimed as depreciation for office assets as per income tax provision.
2. Of rent one-half is paid for his residence.

Required:

Calculate income from profession from the given details:

Problem10 – 7:

Dr. Mahmudul Hasan is a renowned medical practitioner who gives the following receipts and payments account for the year ending on 30th June, 2017.

Receipt and Payment A/c
For the year ended on 30th June, 2017

Receipts	Tk.	Payments	Tk.
Balance B/D	75,000	Rent to clinic	15,000
Consulting Fees from Patients	45,000	Purchase of professional books	20,000
Visiting fees	20,000	Purchase of medicine	15,000
Sale of medicines	90,000	Purchase of Motor car	75,000
Gifts and presents from clients	10,000	Income tax	3,000
Interest from post office savings	12,000	Purchase of surgical equipments	15,000
Winning from lottery	150,000	Gift to wife	5,000
Dividends	10,000	Purchase of land	500,000
Salary income from Dhaka		Balance c/d	264,000
Medical college	500,000		
	<u>912,000</u>		<u>912,000</u>

Additional information:

1. One-third portion of the car is used for personal purpose;
2. Date of purchase: Professional book & Surgical equipments on 1st July, 2014 and Car on 1st January, 2014.
3. Depreciation is to be charged as
 - (a) books @ 30%,
 - (b) car @ 20%, and
 - (c) surgical equipments @ 20% as per Para 3 of Third Schedule;
4. Closing stock of medicine Tk. 4,000.

Required:

Calculate Dr. Mahmudul Hasan's income from profession for the year ending on 30th June, 2017.

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Answers:

Multiple choice questions		True/False
1. a	6. c	1. F
2. c	7. a	2. T
3. d	8. d	3. T
4. a	9. c	4. F
5. b	10. b	5. T

Self review 10 – 1:

- (a) Capital gain: taka – 30,000 and balancing charge: taka – 10,000.
- (b) 40%

Self review 10 – 2:

- (a) 5% of the total income
- (b) taka 40,000.
- (c) taka 800,000.

Self review 10 – 3:

- (a) exceeding taka 450,000.
- (b) exceeding 10% of the profit
- (c) exceeding 5% of the profit
- (d) exceeding 10% of disclosed net profit
- (e) exceeding 1% of disclosed turnover

Self review 10 – 4:

- 1. (a) regular method of accounting
(b) As per Form A (1) – Cash Registrar of Rule 8 of IT Rules, 1984
- 2. actual costs
- 3. There are four different types of depreciation allowance:
 - ⊕ Normal Depreciation Allowance
 - ⊕ Initial Depreciation Allowance
 - ⊕ Accelerated Depreciation Allowance
 - ⊕ Special Depreciation Allowance

CHAPTER - II

CAPITAL GAIN

LEARNING OBJECTIVES

After studying Chapter 11, you shall be able to understand:

- ⊕ the concept of capital gain, capital assets, fair market value and transfer
- ⊕ chargeability under the head capital gain
- ⊕ computation of capital gain
- ⊕ applicable tax rate on capital gain
- ⊕ tax exempted capital gain
- ⊕ carry forward of losses under the head capital gain

Capital gain is the sixth head of income as per section 20 of ITO, 1984. This gain basically arises on transfer of capital asset if transferred at a value more than the original costs. Tax on such income shall be charged at the rates specified in the second schedule in respect of such income in the income year when the transfer took place [Sec 16(3)(ii); 31].

11.1 DEFINITIONS

Some pertinent definitions to this specific head of income are quoted from ITO, 1984.

11.1.1 Capital Assets [Sec 2(15)] 'Capital Asset' means property of any kind held by the assessee, whether or not connected with his business or profession, but does not include –

- (a) Any stock-in-trade (not being stocks or shares), consumable stores or raw materials held for the purposes of his business or profession; and
- (b) Personal effects, that is to say, movable property (including wearing apparel, jewelry, furniture, fixture, equipment and vehicles), which are held exclusively for personal use by, and are not used for purposes of the business or profession of the assessee or any member of his family dependent upon him.

Explanation: Property of any kind: As can be seen, the above definition of capital asset is very sweeping nature and covers *the property of any kind* barring the exceptions mentioned above namely, stock-in-trade, raw materials, movable personal properties, agricultural land within the area as specified. The term "Property of any kind" used in this section are of widest amplitude and include not only tangible assets but also intangible rights. It may be either corporeal or incorporeal. Corporeal means of a material nature i.e. physical things like land, building, shares etc. Not only these assets but non-corporeal assets like route permits for buses, tenancy rights, leasehold rights, copyrights, goodwill, patent, trademarks, franchising, licensing etc. will also be covered under the definition of capital assets. At one end, it includes all types of property-plant-equipment used in business or profession and on the other end, it also includes leasehold rights, goodwill, patent, trademarks, franchising, licensing and all other such assets whether movable or immovable, tangible or intangible, fixed or floating.

11.1.2 Fair Market Value [Sec 2(30)] –

'Fair market value' means, in relation to capital asset –

- (a) The price which such asset would ordinarily fetch on sale in the open market on the relevant day, and, where such price is not ascertainable, the price which the DCT may, with the approval in writing of the Inspecting Joint Commissioner, determine;

Chapter – 11: Capital Gain

- (b) The residual value received from the lessee in case of an asset leased by a financial institution having license from the Bangladesh Bank on termination of lease agreement on maturity or otherwise subject to the condition that such residual value plus amount realized during the currency of the lease agreement towards the cost of the asset is not less than the cost of acquisition to the lessor financial institution.

11.1.3 Transfer [Sec 2(66)] –

‘Transfer’ in relation to a capital asset, includes the sale, exchange or relinquishment of the asset, or the extinguishments of any right therein, but does not include –

- (a) Any transfer of the capital asset under a gift, bequest, will, or an irrevocable trust;
(b) Any distribution of the assets of a company to its shareholders on its liquidation; and

Explanation: if the capital gain arises due to transfer of capital asset to the outsiders in the event of liquidation by the official liquidator, such capital gain will be taxed

- (c) Any distribution of capital assets on the dissolution of a firm or other association of persons or on the partition of a Hindu Undivided Family.

Explanation of the Definition:

1. Sale, exchange or relinquishment of the asset:

- (a) **Sale:** There is no definition of sale under the ITO, 1984. In order to find out legal implication of sale one must resort to the Transfer of Property Act in the case of immovable property and to the Sale of Goods Act in the case of movable property. As per Section 54 of the Transfer of Property Act, 1882, “Sale” is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised.
- (b) **Exchange:** When two persons mutually transfer the ownership of one thing for the ownership of another, neither thing or both things being money only, the transaction according to Section 118 of the Transfer of Property Act, 1882 is called an exchange. Like sale, exchange requires two persons. There cannot be exchange with one self. Exchange is a bilateral transaction involving two parties each of whom owns an asset which constitutes the subject matter of exchange. While in the case of sale, the consideration for transfer is necessarily money, in the case of exchange, the consideration is another asset.
- (c) **Relinquishment of the asset:** Relinquishment means withdrawn from, abandoning or giving up anything. By relinquishment a person ceases to own the asset concerned through some act on his part. In other words, the owner withdraws himself from the property and abandons his rights thereto. The property, however, continues to exist and will become the property of someone else.

2. Extinguishments of rights in an asset: Extinguishments connotes total destruction, annihilation, termination or extinction of a capital asset. However, destruction or extinction of capital assets is not regarded as transfer. In fact, there should be a destruction or extinction of “rights” in the capital asset as it may be noticed that in respect of the expression “exchange or relinquishment”, the subject matter of transfer is “assets” and in case of “Extinguishment”, it is “Rights” Such as,:

- i) Extinguishment of capital rights.
ii) Cancellation of licenses. Where an assessee abandons a project and relinquishes the lease agreement of land, and industrial license and on that account suffers loss, it would be allowable as capital loss.
iii) Reduction of share capital of a company and payment to shareholders.

Note: Transfer is important as capital gain arises only on transfer. The definition makes it clear to decide whether transfer took place or not. But regarding the time, it remains silent. In case of immovable property, the transfer takes effect on the date when the deed of transfer is executed but in case of movable property, the transfer takes place on the date when ownership title over the property passes or when the property is physically handed over to the transferee. [C.I.T vs. Bhurangiya Coal Co Ltd (1958)]

11.2 BASIS OF CHARGE (SEC 31)

Tax shall be payable by an assessee under the head 'Capital Gains' in respect of any profits and gains arising from the transfer of a capital asset and such profits and gains shall be deemed to be the income of the income year in which the transfer took place. In other words, tax liability on capital gain arises only when the following conditions are satisfied:

Condition 1:	There should be a capital asset;	See para 11.1.1 [Sec 2(15)]
Condition 2:	The capital asset is transferred by the assessee;	See para 11.1.3 [Sec 2(66)]
Condition 3:	Such transfer takes place during the income year;	
Condition 4:	There must be profits or gains on such transfer, which will be known as capital gain;	See para 11.3 [Sec 32]
Condition 5:	Such profit or gains is not exempted from tax under sections 31, 32(5), (7), (10), (11), (5).	See para 11.5

11.3 COMPUTATION OF CAPITAL GAINS (SEC 32)

The income under the head "Capital Gains" shall be computed after making the following deduction from the full value of the consideration received or accruing from the transfer of the capital asset or the fair market value thereof, whichever is higher, namely:

- (a) Any expenditure incurred solely in connection with the transfer of the capital asset (e.g. advertisement, brokerage, stamp duty, registration fees, legal expenses etc.); or
- (b) The cost of acquisition of the capital asset and any capital expenditure incurred for any improvements thereto but excluding any expenditure in respect of which any allowance is admissible under any provisions of sections 23 (deductions from interest on securities), 29 (deductions from income from business or profession) and 34 (deductions from income from other sources). [U/s 32 (1)]

For the purpose of this section, "cost of acquisition of the capital asset" means –

- (i) Where it was acquired by the assessee by purchase, the actual cost of acquisition;
- (ii) Where it becomes the property of the assessee under a deed of gift, bequest or will; or under a transfer on a revocable or irrevocable trust; or on any distribution of capital assets on the liquidation of any company or on the dissolution of a firm or other association of persons or the partition of a Hindu Undivided Family; the actual cost of acquisition to the previous owner of the capital asset as reduced by the amount of depreciation, if any, allowed to the previous owner; and where the actual cost of acquisition to the previous owner cannot be ascertained, the fair market value at the date on which the capital asset become the property of the previous owner. [U/s 32 (2)]

Notes:

1. If the assessee has obtained depreciation allowance in any year for any asset, the cost of acquisition in such case shall be the written down value as increased or decreased by any adjustment made under section 19(16) or 19(17) or 27(1)(j) or 29(1)(xi). The adjustment is with reference to balancing allowance actually deducted or balancing charge actually added. [U/s 32 (2)]
2. If the ownership comes through succession/inheritance/devolution, the cost of acquisition shall be the fair market value at such date when the asset becomes the property of the assessee. [U/s 32 (2)]
3. If the DCT opines that the fair market value exceeds the full value of the consideration declared, by an amount of not less than 15% of the value so declared, the fair market value shall be determined again with the permission of Inspecting Joint Commissioner of Taxes IJCT. [U/s 32 (3)]

Chapter – 11: Capital Gain

Example: Say the declared value of a specific asset is BDT 50 thousand whereas the estimated fair value by the DCT amounts to BDT 59 thousands, i.e., more than 15% of declaration. In such a case, DCT may consider the fair value of the asset as BDT 59 thousands for the purpose of calculating capital gains with prior permission from IJCT.

4. If the Deputy Commissioner of Taxes opines that the fair market value exceeds the full value of the consideration declared by more than 25% of such declared value, the Government may offer to buy the said asset in such manner as may be prescribed through Rule 42. [U/s 32 (4)]

Example: Say the declared value of a specific asset is BDT 50 thousand whereas the estimated fair value by the DCT amounts to BDT 65 thousands, i.e., more than 25% of declaration. In such a case Government may offer to buy the asset under Rule 42.

11.4 TAX RATE (PARA 2, SECOND SCHEDULE):

Any income under the head “capital gains” shall be taxed at the rate as specified below:

(a) In the case of a company –

- (i) Tax payable on the total income excluding capital gains as per applicable rate;
- (ii) Tax at the rate of 15% on the whole amount of such capital gains.

(b) In the case of a person other than a company –

- (i) On disposal of capital assets within 5 years of acquisition, the amount of capital gain will be included with total income and taxed accordingly at regular rate;
- (ii) On disposal of capital assets after 5 years of acquisition, tax payable on the capital gains at the rate applicable to his total income including the said capital gains, or tax at the rate of 15% on the capital gains, whichever is lower.

Illustration:

1. ACI Ltd.’s total income is Tk. 500,000 (inclusive of Tk. 50,000 capital gain) for the income year 2016-17. Compute the tax liability assuming that the Company tax rate is 25%.

	Total income	Tax rate	Tax Liability
Total income less capital gain	450,000	25.00%	112,500
Capital gain	50,000	15.00%	7,500
Total	500,000		120,000

2. Mr. Tanvir’s total income is Tk. 700,000 (inclusive of Tk. 50,000 capital gain) for the income year 2016-17. If disposal of capital assets has done within 5 years of acquisition. His tax liability is

	Tax rate	Tax Liability
On first Tk. 250,000	Nil	-
On next Tk. 400,000	10%	Tk. 40,000
On next Tk. 50,000	15%	7,500
Total		Tk. 47,500

3. The details of total income and capital gain of two assessee’s are for the income year 2016-17 are:

	Mr. Javed	Mr. Abrar
Total income excluding capital gain	235,000	4,720,000
Capital gain	100,000	100,000
Total income	335,000	4,820,000

Compute the tax liability for the assessment year 2017-18, assuming that disposal of capital assets has done after 5 years of acquisition.

Mr. Javed: Tax liability on total income (including capital gain): [(Tk. 250,000 × 0%) + (Tk. 85,000 × 10%)] = Tk. 8,500; Average tax rate on total income (including capital gain) = (8,500/335,000) × 100

= 2.54%. Tax rate applicable on capital gain: 2.54% or 15%, whichever is lower i.e. 2.54%. So, Tax liability on capital gain = Tk. 100,000 × 2.54% = Tk. 2,540.

Mr. Abrar: Tax liability on total income (including capital gain):

	Tax rate	Tax Liability
On first Tk. 2,50,000	Nil	-
On next Tk. 4,00,000	10%	40,000
On next Tk. 5,00,000	15%	75,000
On next Tk. 6,00,000	20%	120,000
On next Tk. 30,00,000	25%	750,000
On next Tk. 70,000	30%	21,000
Total		10,06,000

Average tax rate on total income (including capital gain) = $(10,06,000 \div 4,820,000) \times 100 = 20.87\%$

Tax rate applicable on capital gain: 20.87% or 15%, whichever is lower i.e. 15%

So, Tax liability on capital gain = Tk. 100,000 × 15% = Tk. 15,000

SELF REVIEW 11 – 1

- (a) What are the allowable deductions for computing taxable income under “Capital Gain”?
- (b) What are the rates for calculation of tax under the head for
 - (i) assessee being a company
 - (ii) assessee being a person other than a company?

11.5 TAX EXEMPTED CAPITAL GAINS

Capital gains are exempted from taxes in following cases:

- (1) **Capital gain arising from the transfer of capital asset used for the purpose of business [Sec 32(5)]:** If the capital gains, arising out of transfer of capital assets used in the business or profession, is used fully or in part to purchase a new capital asset within a period of one year before or after the date of transfer and if the assessee elects in writing before the assessment for rolling over the gain on new asset;
- (2) **Capital gain arising from the transfer of Government Securities [Sec 32(7)]:** If capital gain arises from the transfer of capital assets being government securities in Bangladesh; [Sec 32(7)]
- (3) **Capital gain arising from transfer of capital being buildings or lands to a new company [Sec 32(10)]:** If capital gain arises from the transfer of capital assets being buildings or lands to a new company for setting up of an industry, and if the whole amount of capital gain is invested in the equity of the said company;
- (4) **Capital gain of a firm arising from transfer of its capital asset to a new company [Sec 32(11)]:** If capital gain arises from the transfer of capital assets of a firm to a new company and if the whole amount of capital gain is invested in the equity of the said company by the partners of the said firm.
- (5) **Capital gain arising from the transfer of Securities approved by SEC and traded in Stock Exchanges in some specific cases [SRO 196/L/IT/2015 dated 30/06/2015]:** If capital gain arises from the transfer of securities approved by SEC and traded in Stock Exchanges (e.g. shares, stocks, mutual fund units, bond, debenture or any other types of securities but not government securities in Bangladesh) by any party other than the parties on whom tax is imposed as per this SRO (See 3.13 of Chapter 3).

11.6 CARRY FORWARD OF LOSS UNDER THE HEAD CAPITAL GAINS (SEC 40)

In exceptional situation it may results capital loss. If the asset is transferred at a value less than the cost of acquisitions, there may be capital losses. It is customary if the capital asset is sold in the year of purchase where no depreciation allowance is allowed and the second-hand value in the market becomes less than the cost in maximum types of assets.

Capital loss is also common in case of motor vehicles not plying for hire if purchased at more than ten lakh taka as the actual cost shall be deemed not to exceed ten lakh taka for the purpose of depreciation allowance under third schedule, ITO 1984. Section 37 and 40 provides the provisions regarding the set-off and carry forward of losses under the head “Capital gains”. The combined effect of sections 37 and 40 is:

- (1) If capital loss arises in any income year-
 - a) it can be set off in the same year against capital gains relating to any other capital asset.
 - b) If there is no other heads of such capital gain or if the gain in such other head is not sufficient, such loss can be carried forwarded for a period of no more than six (6) successive years.
- (2) The right of carry forward is subject to one exception. In the case of any assessee, capital loss cannot be carried forwarded if total loss amounts to taka 5000 or less. When the loss amount exceeds taka 5000, only the excess amount is eligible for carry forward to the next year(s).

SELF REVIEW 11 – 2

- (a) In what situations, you may have loss under the head capital gain?
- (b) What is the condition of carry forward of losses under the head?

SPECIMEN FORM OF COMPUTING INCOME UNDER “CAPITAL GAIN”

Assessee:

Assessment Year: 2017 – 2018

Income Year: 2016 – 2017

Income under “Capital Gains” (Sec 31):	Tk.	Tk.	Tk.
Sale Proceeds of Capital Assets, or	XX		
Fair Market Value at the Time of Transfer, <i>whichever is higher</i>	XX	XX	
Less – Allowable Deductions			
(a) Expenditure incurred to transfer the capital asset(s)	XX		
(b) Cost of Acquisition	XX		
(c) Capital expenditure for improvements of the asset(s)	XX	XX	
Capital Gain			XX
Less: Tax-Exempted capital gains U/s 31 & 32			XX
Capital Gain Assessed			XX

Illustration 11 – 1:

Mr. Dixon has incurred the following transactions relating to capital gain in the year ended on June 30, 2017. You are asked to calculate the amount of capital gain for the purpose of charging income tax thereon in each of the independent situation:

- (a) He has sold a motorcar at Taka 550000 that he purchased in 2014 at a cost of Taka 400000 and used solely for personal purposes.

- (b) Sale of a 3-storied building for taka 3,000,000 in December 2016, which was purchased on March 2006 for taka 1,800,000. In January 2012, the building was extended at a total cost of taka 500,000. The fair value of the building in December 2016 was taka 3,200,000.
- (c) Sold an agricultural land situated in Comilla at a total price of taka 2,500,000 which was purchased 5 years back at a total price of taka 1,100,000.
- (d) Sold 100 shares of Prime Bank @ Tk. 600 in DSE (Brokerage commission 1% of the proceeds). The acquisition price was @ Tk. 200 (Brokerage commission 1%).
- (e) Sold a machine, purchased at a price of taka 80,000 for the purpose of his business, at a price of taka 150,000 at fair market value. Another taka 30,000 was spent to improve the machine. At the time of sale, the machine had accumulated depreciation amounting to taka 60,000.

Solution 11 – 1:

- (a) As the motorcar is a movable property and used exclusively for personal purposes, it does not fall under the category of capital asset as per section 2(15). So, there is no need to calculate the chargeable capital gain.
- (b) Calculation of capital gain from the sale of building: Sale proceeds or fair market value whichever is higher Tk. 3,200,000 less Cost of acquisition Tk. 1,800,000 less Cost of extension Tk. 500,000. Therefore, Capital Gain Tk. 900,000.
- (c) Capital gain will be (Tk. 25,00,000 – Tk. 11,00,000) = Tk. 14,00,000.
- (d) The capital gain from the sale of shares is: Sale proceeds or the shares (100 shares @ Tk. 600) Tk. 60,000 less Brokerage commission on sale 1% Tk. 600 less Cost of acquisition (100 shares @ Tk. 200) Tk. 20,000 less Brokerage commission on purchase 1% Tk. 200. So, Capital Gain is Tk. 39,200 and the total amount of this capital gain is exempted from tax.
- (e) Calculation of capital gain from the sale of building: Sale proceeds or fair market value whichever is higher Tk. 150,000 less Cost of Acquisition Tk. 80,000 less Cost of improvement Tk. 30,000. Therefore, Capital Gain is Tk. 40,000.

Illustration 11 – 2:

Mr. Zaman purchased an old house in Dhaka in November 2013 for Tk. 1,500,000. He has paid 1% as brokerage and subsequently spent Tk. 500,000 for the renovation of the house. On 1st July, 2016 he entered into an agreement to sell the property to Mr. Kamran for a consideration of Tk. 5,000,000 and received earnest money (advance money) of Tk. 100,000. As per the terms of the agreement, the balance payment should be made within 90 days of the agreement and if not the earnest money will be forfeited. As Mr. Kamran could not make the payment within the stipulated time the amount of Tk. 100,000 was forfeited by Mr. Zaman. Subsequently on 10th June, 2017, Mr. Zaman sold the house to Mr. Tareq for Tk. 5,500,000. He paid 2% brokerage on sale of the house. The fair market value of the house on the date of sale was Tk. 5,200,000. Calculate taxable capital gains for the income year 2016-17.

Solution 11 – 2:

Calculation of Taxable capital gains:

Income under “Capital Gains” (Sec 31):	Tk.	Tk.
Full value of consideration received against Capital Asset: (including the forfeited amount of Tk. 100,000)	5,600,000	
Fair Market Value at the Time of Transfer,	5,200,000	
<i>Disposal value of the capital asset (whichever is higher)</i>		5,600,000
Less – Allowable Deductions		
Brokerage fee for sale (5,500,000 × 2%)	110,000	

Chapter – 11: Capital Gain

Cost of Acquisition [1,500,000 + (1,500,000 × 1%)]	1,515,000	
Cost of improvements of the asset	500,000	2,125,000
Capital Gain		<u>3,475,000</u>

Illustration 11 – 3:

Mr. Jonathon is a member of Dhaka Stock Exchanged who purchased such membership at a price of taka 2,000,000 in 2003. On 1st July 2016 he has converted his membership into a Company registered under the Company Act, 1994. The conversion value of such membership was taka 8,000,000 having 80,000 shares of taka 100 par value per share. In December 2016, he sold 10,000 shares of the company at a total value of taka 1,100,000. Discuss tax implications.

Solution 11 – 3:

Stage 1: Capital gain at the time of transfer of membership is taka 6,000,000 (8,000,000 – 2,000,000). But this capital gain would not be taxed as the whole amount has been invested into the equity of a company registered under the Company Act, 1994.

Stage 2: Computation of capital gain from the sale of shares: Sale proceeds of shares Tk. 1,100,000 less Cost of acquisition [(2,000,000 ÷ 80,000) × 10,000] Tk. 250,000; therefore, Taxable capital gain is Tk. 850,000 on which applicable tax rate is 5%, as he is a sponsor director.

Illustration 11 – 4:

Mr. Andaleeb has purchased a machine at a total cost of Taka 500,000 on 23rd April 2013 for the purpose of his profession. In addition, he has paid Taka 10,000 as legal fees. He has spent an additional sum of Taka 50,000 for improvement of the machine. On 30th December 2016, he had sold the machine at a total price of Taka 600,000 when the balance of allowable accumulated depreciation was 126,000 in his books of accounts. But the fair market value on that date amounts to Taka 650,000 in the opinion of DCT. He incurred advertisement cost of Taka 20,000 and 1.5% as brokerage commission on the sale value. He has taxable income of Taka 230,000 from other sources. Compute capital gain, total taxable income, and specify tax rate thereon.

Solution 11 – 4:

Assessee: Mr. Andaleeb

Assessment Year: 2017 – 2018; Income Year: 2016 – 2017

Income under “Capital Gains” (Sec 31):	Tk.	Tk.	Tk.
Sale Proceeds of Capital Assets, or	600,000		
Fair Market Value at the Time of Transfer, <i>whichever is higher</i>	650,000	650,000	
Less – Allowable Deductions			
(a) Expenditure incurred to transfer the machine (Note 1)	29,000		
(b) Cost of Acquisition (Note 2)	510,000		
(c) Capital expenditure incurred for improvement of the machine	50,000	589,000	
Capital Gain			61,000
Less: Reinvested Gain to claim rollover relief [Sec 32(5)]			-
Capital Gain Assessed			61,000
Income from Business or Profession (Sec 28):			
Balancing charge (revenue gain) on sale of machineries (Note 3)			126,000
Income from Other Sources (given)			230,000
Total Taxable Income			<u>417,000</u>

Notes: (1) expenditure incurred to transfer the capital asset, Taka 29,000 (adv. 20,000 + commission 1.5% of 600,000) (2) cost of acquisition, Taka 510,000 (cost 500,000 + legal fees 10,000) (3) Balancing charge or revenue

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gain on sale of machinery, Taka 126,000 [Net Sale Proceeds (650,000 – 29,000) Tk. 621,000 less Written Down Value (500,000 + 10,000 + 50,000 – 126,000) Tk. 434,000; Net gain on sale of machine Tk. 187,000 out of which Capital Gain is Tk. 61,000. Therefore, Balancing Charge is Tk. 126,000. (4) In this case, tax will be applied at regular rate, as Mr. Radian is a person other than a company disposed the asset within five year.

Illustration 11 – 5:

Mr. Hasan runs a business of his own. He has purchased a piece of land at a cost of Taka 10,000,000 on 1st January 2011 within the jurisdiction of Chittagong Municipality having a total population of around 50,000 according to the last census. He has paid Taka 50,000 as finders' fee and another Taka 120,000 as registration fee for the land. He has sold the land on July 15, 2016 at a price of Taka 22,000,000. For the sale, He has to pay brokerage fee @ 2% on the gross sales amount receipt. In DCT's opinion, the fair market value of the land at the time of sale is Taka 20,000,000. On June 30, 2017 He has purchased another land at a cost of (a) Taka 10,000,000 (b) Taka 12,000,000 and expressed his intention of getting roll over relief of capital gain on new land in writing to DCT. He also had Taka 200,000 as taxable income from interest on securities and another Taka 100,000 taxable income from, 'income from other sources'. Compute the amount of capital gain and tax liability.

Solution 11 – 5:

Assessee: Mr. Hasan
Assessment Year: 2017 – 2018
Income Year: 2016 – 2017
(all the figures in this table is in thousand)

Income under "Capital Gains" (Sec 31):	Tk.	Tk.	(a) Tk.	(b) Tk.
Sale Proceeds of Capital Assets, or	22,000			
FMV at the Time of Transfer, <i>higher one</i>	20,000	22,000		
Less – Allowable Deductions				
Expenditure to transfer the asset (Note 2)	440			
Cost of Acquisition (Note 3)	10,170			
Capital expenditure for asset improvement	-	10,610		
Capital Gain			11,390	11,390
Less: Reinvested Gain to claim rollover relief [Sec 32(5)]			10,000	11,390
Capital Gain Assessed (Note 4)			<u>1,390</u>	<u>=</u>
Tax value of new asset			<u>nil</u>	<u>610</u>
Taxable Income: Income from Interest on Securities (given)			200	200
Capital Gains (as calculated above)			1,390	
Income from Other Sources (given)			100	100
Total Taxable Income			<u>1,690</u>	<u>300</u>

Computation of Tax Liability:

Taxable Income			Rate	Amount of Tax	
Income tier	Case (a)	Case (b)		Case (a)	Case (b)
On First Taka	250,000	250,000	Nil	-	-
On Next Taka	400,000	50,000	10%	40,000	5,000
On Next Taka	500,000		15%	75,000	
On Next Taka	540,000		20%	108,000	
Total	<u>1,690,000</u>	<u>300,000</u>		<u>223,000</u>	<u>5,000</u>

Chapter – 11: Capital Gain

Average Tax Rate [2,23,000/16,90,000]; [5,000/300,000]	13.20%	1.67%
Flat Rate	15.00%	15.00%
Tax Rate on Capital Gain (note 6)	13.20%	nil
Tax on Capital Gain (13.20% on 13,90,000)	1,83,480	
Tax on remaining Tk 300,000 will be @ regular rate	5,000	5,000
Net Tax Liability	<u>188,480</u>	<u>5,000</u>

Notes: (1) The land qualified as capital asset as, it is not an agricultural land and is situated within the jurisdiction area as specified and total number of people living is more than 10,000. (2) expenditure incurred to transfer the capital asset, Tk. 440,000 (brokerage fees 2% of 22,000,000) (3) cost of acquisition, Tk. 10,170,000 (cost 10,000,000 + finders' fees 50,000 + reg. Fees 120,000) (4) In case of (a) as the investment was less than the capital gain, there will be capital gains equivalent to differential amount and tax have to pay on such amount though the tax value of the new asset will be nil. But in case of (b) investment is more than the capital gain and so there will be no capital gain left to charge under the head and the tax value of the new asset will be the difference between the cost of new assets and capital gains rolled over (Tk. 12,000,000 – Tk. 11,390,000). (5) There is no revenue gain as the cost and WDV of the asset is same. (6) Here, the assessee is a person other than a company and the asset is sold after 5 years of purchase. So, tax rate will be the lower of average tax rate computed on tax on total income including capital gain and 15% flat rate. So in case (a), applicable tax rate on capital gain will be 13.20% as this is the lower one and at regular rate on remaining income. But in case on case (b), tax will be applied at regular rate as there is no income under 'capital gain'.

Illustration 11 – 6:

Mr. Rex purchased a land in January 2003 at a total cost of Taka 1,000,000 and constructed a building over the land at a total cost of Taka 1,500,000 that was solely used for his business. The current fair market value of the land is Taka 9,800,000. In July 2016, he entered into an agreement with Fortune Properties Ltd and as per the agreement he would get 4 out of 20 flats that the developer would construct. Total value of those four flats is Tk. 6,880,000. Compute taxable capital gain for Mr. Rex.

Solution 11 – 6:

Calculation of taxable Capital Gain

Income under "Capital Gains" (Sec 31):	Tk.	Tk.	Tk.
Sale Proceeds of Capital Assets, or	-		
FMV at the Time of Transfer, <i>whichever is higher</i>	<u>9,800,000</u>	9,800,000	
Less – Allowable Deduction: Cost of Acquisition (Note 1)		<u>2,500,000</u>	
Capital Gain			7,300,000
Less: Reinvested Gain to claim rollover relief [Sec 32(5)]			<u>6,880,000</u>
Capital Gain Assessed			<u>420,000</u>
Tax value of new asset (flats) (Note 2)			-

Notes: (1) cost of acquisition, Taka 2,500,000 (land 1,000,000 + building 1,500,000) and (2) As Mr. Rex receives no cash rather gets flats, the gain is reinvested and that is why he is eligible to get rollover relief provided that he elects such in writing to DCT before the assessment. Thus, tax value of the flats will be nil and his capital gains will be assessed to the extent of taka 420,000 for tax purposes.

Illustration 11 – 7:

Mr. Boucher is a regular investor of Dhaka Stock Exchange (DSE) Limited. In July 2010, he has purchased 5,000 shares of Tk. 1,000 par value of IBBL @ Tk. 1,575. Brokerage charge on that time was 1.5% on the gross value of the shares traded. In March 2014, Islami Bank declared a cash dividend of Tk. 10 per share and a 1 for 5 stock dividends when the market value of such shares

was Tk. 1,800 each. In December 2016, Mr. Boucher sold 2000 shares including all of the shares that he received as bonus share in 2014 @ Taka 2000. On the date of sale, the brokerage charge was 1% on the gross value of shares traded. Compute the amount of Capital Gain from the sale of shares.

Solution 11 – 7:

Assessee: Mr. Boucher
Assessment Year: 2017 – 2018
Income Year: 2016 – 2017

Income under “Capital Gains” (Sec 31):	Tk.	Tk.	Tk.
Sale Proceeds of Capital Assets (Taka 2000*2000 shares), or FMV at the Time of Transfer, <i>whichever is higher</i>	4,000,000		
	<u>4,000,000</u>	4,000,000	
Less – Allowable Deduction			
(a) Expenditure incurred to transfer shares (Note 1)	40,000		
(b) Cost of Acquisition (Note 2)	<u>1,598,625</u>	<u>1,638,625</u>	
Capital Gain			2,361,375
Less: Exempted [Sec 32(7)] (Note 3)			<u>2,361,375</u>
Capital Gain Assessed			=

Notes: (1) cost of selling shares, Taka 40,000 (brokerage charge, 1% of 4,000,000) (2) total number of shares sold is 2000. Number of bonus shares received in March 2014 is 1000 (5000/5). So, number of shares sold from original purchase is 1,000 (2,000 – 1,000). Cost of 5,000 shares purchased in July 2010 was 7,993,125 as Market value of shares (Tk. 1,575 × 5000 shares) Tk. 7,875,000 plus Brokerage Commission (1.5% on 7,875,000) Tk. 118,125. As, cost of 1,000 bonus was nil, proportionate cost of 1,000 shares is TK. 1,598,625. (2) Capital gain on transfer of shares (whether purchased or bonus) is full exempted for an individual investor.

KEY POINTS

1. Capital gain basically arises on transfer of capital asset if transferred at a value more than the original costs.
2. Capital gain arising from transfer of government securities is exempted from income tax.
3. If the ownership comes through succession, inheritance, or devolution, the cost of acquisition shall be the fair market value at such date when the asset becomes the property of the assessee.
4. Any transfer of capital asset as a gift, bequest, will, or an irrevocable trust is not taxable.
5. In case of a person other than a company on disposal of capital assets within 5 years of acquisition, the amount of capital gain will be included with the total income and taxed accordingly at regular rate. Otherwise the rate will be lower of average rate or 15%.
6. In case of a company tax rate on capital gain is 15%.
7. No tax will be charged if capital gain arises from the transfer of capital assets being government securities and stocks and shares of public companies listed with a stock exchange in Bangladesh.
8. No tax will be charged if capital gain arises from the transfer of capital assets of a firm to a new company and if the whole amount of capital gain is invested in the equity of the said company by the partners of the said firm.
9. Losses from the head capital gain cannot be set off with income from other head(s).
10. Losses from capital gain can be carry forwarded by the amount exceeding Tk. 5,000.

Multiple choice questions:

1. Capital assets exclude –
 - (a) Agricultural land
 - (b) Machinery
 - (c) Residential building
 - (d) Stock-in-trade
2. Which one is not a transfer for the purpose of capital gain calculation? –
 - (a) Transfer on liquidation
 - (b) Compulsory acquire of the govt.
 - (c) Sale in open market
 - (d) Auction sale
3. What are the allowable deductions for computing capital gain? –
 - (a) Cost of acquisition
 - (b) Cost of improvement
 - (c) Cost incurred to make it saleable
 - (d) All of the above
4. The applicable tax rate on capital gain for a company is –
 - (a) 15%
 - (b) 25%
 - (c) 30%
 - (d) 40%
5. Which of the following capital gain is tax exempted for an individual? –
 - (a) Gain arising from the sale of land
 - (b) Gain arising from the sale of plant and machinery used for business
 - (c) Gain arising from the sale of shares of publicly traded companies
 - (d) Gain arising from the sale of building
6. Which of the following statement is true –
 - (a) No tax is applicable on capital gain for an individual assessee
 - (b) 15% tax will be charged on capital gain for a company
 - (c) Tax will be charged at an average rate on capital gain for an individual assessee
 - (d) Capital gain is the difference between sales proceeds and WDV
7. What is the rate of tax on capital gain for an individual if the gain arises within 5 years of acquisition –
 - (a) 15%
 - (b) Average rate
 - (c) Lower of a and b
 - (d) None of the above
8. when the loss under the head capital gain is Tk. 7,000, how much of it can be carried forward –
 - (a) Tk. 5,000
 - (b) Tk. 3,000
 - (c) Tk. 2,000
 - (d) Tk. 1,000
9. How long the losses under the head capital gain can be carried forward –
 - (a) 6 years
 - (b) 4 years
 - (c) 2 years
 - (d) Next year only

10. Losses under the head capital gain can be set off against –
- Income from any other head(s)
 - Income from any other head(s) except speculation business
 - Income from speculation business only
 - No other head(s)

Identify the following statements as True (T) or False (F):

- Capital gain arises from transfer of capital assets if transferred at more than written down value.
- Government may acquire the asset if the fair market value exceeds the full value of the consideration declared by more than 15% of such declared value.
- In case of an individual, capital gain will be taxed at regular rate if the asset is disposed within 5 years of acquisition.
- Capital loss can only be carried forward if the total loss exceeds by taka 5,000.
- If the ownership comes through succession, inheritance, or devolution, the cost of acquisition shall be the fair market value of the asset.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 11 – 1:** Define capital gain and explain computation procedure of capital gain.
- Question 11 – 2:** ‘Capital Asset’ means property of any kind held by the assessee, whether or not connected with his business or profession, but does not include all assets” - explain.
- Question 11 – 3:** Explain the allowable deductions under the head capital gain.
- Question 11 – 4:** “In computing capital gain determination of fair market value is important” – do you agree? Explain.
- Question 11 – 5:** Under what circumstances do you think capital gains are exempted from taxes?
- Question 11 – 6:** “Tax rate on capital gain varied with different types of assessee” – explain.
- Question 11 – 7:** Specify the provisions of setting off and carry forwarding of losses under the head “Capital Gain”.
- Question 11 – 8:** Write short note on:
- Capital assets
 - Transfer
 - Fair market value
 - Carry forward of losses under the head capital gain

Fill in the blanks with appropriate word:

- If the fair market value exceeds the full value of the consideration declared in respect of capital asset transferred, by an amount of not less than _____ of the value so declared, the fair market value shall be determined again with the permission of IJCT.
- In case of an individual, capital gain will be taxed at average rates applicable to him or 15% on the capital gain separately; whichever is _____ if the asset is disposed after 5 years of acquisition.
- If any asset is transferred at a value less than the cost of acquisitions, there may be the possibility of having capital _____.
- Capital loss can be carried forward for not more than _____ successive years.

Chapter – 11: Capital Gain

Problem 11 – 1:

Mr. Akbar is a member of Dhaka Stock Exchange who purchased such membership at a price of taka 80,000 in 2007. On 1st July 2014 he has converted his membership into a Company registered under the Company Act, 1994. The conversion value of such membership was taka 8,000,000 having 80,000 shares of taka 100 par value per share. In July 2016, he sold 1,000 shares of the company at a total value of taka 150,000.

Required: Discuss the tax implications.

Problem 11 – 2:

Mr. Rahman has purchased a machine at a total cost of Taka 800,000 on 23rd April 2013 for the purpose of his profession. In addition, he has to pay Taka 50,000 as legal fees. He has spent an additional sum of Taka 50,000 for improvement of the machine. On 30th December 2016, he had sold the machine at a total price of Taka 1,000,000 when the balance of allowable accumulated depreciation was 400,000 in his books of accounts.

But the fair market value on that date amounts to Taka 950,000 in the opinion of DCT. He incurred advertisement cost of Taka 70,000 and 1.5% as brokerage commission on the sale value in relation to the sale. He has taxable income of Taka 330,000 from other sources.

Required: Compute capital gain, total taxable income, and specify tax rate thereon.

Problem 11 – 3:

Mrs. Joarder runs a business of her own. She has purchased a piece of land at a cost of Taka 9,000,000 on 1st January 2009 within the jurisdiction of Khulna Municipality having a total population of around 30,000 according to the last census. She has to pay Taka 30,000 as finders' fee and another Taka 100,000 as registration fee for the land. She has sold the land on July 15, 2016 at a price of Taka 20,000,000. For the sale, she has to pay brokerage fee @ 2% on the gross sales amount receipt.

In DCT's opinion, the fair market value of the land at the time of sale is Taka 18,000,000. On July 30, 2016 she has purchased another land at a cost of (a) Taka 10,000,000 (b) Taka 11,000,000 and expressed her intention of getting roll over relief of capital gain on new land in writing to DCT. She also had Taka 400,000 as taxable income from interest on securities and another Taka 100,000 taxable income under the head, 'income from other sources'.

Required: Compute the amount of capital gain and tax liability.

Problem 11 – 4:

Mr. White is a regular investor of Chittagong Stock Exchange (CSE) Limited. In July 2008, he has purchased 50000 shares of Taka 100 par value of EXIM Bank Ltd @ Taka 475. Brokerage charge on that time was 1.5% on the gross value of the shares traded. In March 2010, EXIM Bank declared a cash dividend of Taka 10 per share and a 1 for 4 stock dividends when the market values of such shares were Taka 600 each.

In December 2016, Mr. Boucher sold 15000 shares including all of the shares that he received as bonus share in 2010 @ Taka 800. On the date of sale, the brokerage charge was 1% on the gross value of shares traded.

Required: Compute the amount of Capital Gain from the sale of shares.

Answers:

Multiple choice questions		True/False
1. d	6. b	1. F
2. a	7. d	2. F
3. d	8. c	3. T
4. a	9. a	4. T
5. c	10. d	5. T

Self review 11 – 1:

- (a) The following expenses are allowable deductions under the head:
- (i) Any expenses incurred for the transfer of capital asset;
 - (ii) The cost of acquisition of capital assets and other capital expenditure incurred for improvements thereto.
- (b) Capital gain is charged at different rate as given in the second schedule of IT Ordinance, 1984. The rates as per the schedule are given below:
- (i) For assessee being a company – at the rate of 15%
 - (ii) For assessee being a person other than a company –
 - ⊕ if disposed within 5 years of acquisition, will be taxed at regular rate
 - ⊕ if taxed after 5 years, the rate will be the lower of regular or 15%

Self review 11 – 2:

- (a) Loss under the head ‘capital gain’ is somewhat exceptional. If capital assets are transferred at a value less than the cost of acquisition, it results capital loss. It is customary to have capital loss under the following two situations:
- (i) If the capital asset is sold as second hand in the year of purchase when no depreciation allowance is allowed; and
 - (ii) If motor vehicles not plying for hire is purchased at more than ten lakh taka as the actual cost shall be deemed not to exceed ten lakh taka for the purpose of depreciation allowance.
- (b) Such loss can be carried forward for 6 successive years for set off only against the income from such head. The limit is as follows:
- (i) If the loss is less than taka 5,000; no carry forward is allowed
 - (ii) If the loss is more than taka 5,000; the additional amount can be carried to the next years for set off.

CHAPTER – 12

INCOME FROM OTHER SOURCES

◎ LEARNING OBJECTIVES ◎

After studying Chapter 12, you shall be able to understand:

- ⊕ scope of income under other sources
 - ⊕ unexplained investments deemed to be income
 - ⊕ income not classified under other heads
 - ⊕ allowable deductions under the head
 - ⊕ inadmissible deductions
 - ⊕ concept of deemed income, grossing up and tax exemption under the head
-

We have already seen that according to Section 20 of the ITO, 1984, there are seven heads of income. Of them, income from other sources is the last one. The incomes other than from salary, interest on securities, house property, agricultural income, business or profession and capital gains will be included under this head. In case of incomes which do not fit in anywhere under the first six heads, it will be considered under the head "Income from Other Sources".

12.1 SCOPE OF INCOME FROM OTHER SOURCES

According to Section 33 of the ITO, 1984, the following incomes of an assessee shall be classified and computed under the head "Income from Other Sources", namely:-

- (a) dividend and interest;
- (b) royalties and fees for technical services;
- (c) income from letting of machinery, plants or furniture belonging to the assessee, and also of buildings belonging to him if the letting of buildings is inseparable from the letting of the machinery, plant or furniture;
- (d) any income to which section 19 (1), (2), (3), (4), (5), (8), (9), (10), (11), (12), (13), (21), (21A), (21B), (24), (26), (27), (28), (29) or (31) applies;
- (e) any other income of any kind or from any source which is not classifiable under any of the other heads specified in Section 20.

12.2 DIVIDEND INCOME [SECTION 33(A)]

Dividend, in its ordinary connotation, means the sum paid to or received by a shareholder proportionate to his shareholdings in a company out of the total sum distributed. According to Section 2(26) of the ITO, 1984, the term "Dividend" includes the following items:

- (a) **Distribution out of profits and release of assets or reserves:** Any distribution by a company of accumulated profits, whether capitalized or not, if such distribution entails the release by the company to its shareholders of all or any part of its assets or reserves;
- (b) **Distribution of debentures to shareholders:** any distribution by a company, to the extent to which the company possesses accumulated profits, whether capitalized or not, to its shareholders of debentures, debenture-stock or deposit certificates in any form, whether with or without interest;

- (c) **Distribution on liquidation of the company:** any distribution made to the shareholders of a company on its liquidation to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalized or not;
- (d) **Distribution to shareholders on the reduction of capital:** any distribution by a company to its shareholders on the reduction of its capital, to the extent to which the company possesses accumulated profits, whether such accumulated profits have been capitalized or not;
- (dd) **Profit remitted outside Bangladesh:** any profit remitted outside Bangladesh by a company not incorporated in Bangladesh under The Company Act 1994.
- (e) **Loans to shareholders of a private limited company:** any payment by a private company of any sum (whether as representing a part of the assets of the company or otherwise) by way of advance or loan to a shareholder or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company, in either case, possesses accumulated profit;

The term “Dividend” does not include the following items:

- (i) a distribution made in accordance with sub-clause (c) or sub-clause (d) in respect of any share including preference share for full cash consideration, or redemption of debentures or debenture-stock, where the holder of the share or debenture is not entitled in the event of liquidation to participate in the surplus assets;
- (ii) any advance or loan made to a shareholder in the ordinary course of its business, where the lending of money is a substantial part of the business of the company;
- (iii) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as dividend with the meaning of sub-clause (e) to the extent to which it is to set off.
- (iiia) any bonus share issued by a company;

12.2.1 Dividend incomes deemed to accrue or arise in Bangladesh: The following two types of dividend income are considered as deemed dividend income and will be also included under the term “Dividend”:

- (i) Any dividend paid outside Bangladesh by a Bangladeshi Company. [u/s 18(3)]
- (ii) Any dividend declared or distributed by a company shall be deemed to be the income of the income year in which it is received and shall be included in the total income of the assessee of that year. [Section 19(7)]

12.2.2 Tax exemption on Dividend: The following amount of dividend is excluded from computation of total income under the head “Income from Other Sources”:

1. Income from dividend received from a company listed in stock exchange in Bangladesh up to Tk. 25,000. [Sixth schedule, Part A, Para 11A];
2. Any income from dividend of a mutual fund or a unit fund up to Tk. 25,000 [Sixth schedule, Part A, Para 22A].

Other than the above amount, dividend income received from all other sources like public and private limited companies is fully taxable.

12.2.3 Tax deducted at source from Dividend: According to Section 54 of the ITO, 1984, tax is deducted at source from the dividend in the following way: The principal officer of a company registered in Bangladesh, or of any other company, shall, at the time of paying any dividend to a shareholder, deduct tax on the amount of such dividend, in the case of—

Chapter – 12: Income from Other Sources

- (a) a non-resident other than non-resident Bangladeshi (i.e. non-resident foreigner),-
 - (i) if the shareholder is a company, at the rate applicable to a company; i.e. 20%.
 - (ii) if the shareholder is a person other than a company @ 30% [Maximum rate]
- (b) a resident or a non-resident Bangladeshi, -
 - (i) if the shareholder is a company, at the rate applicable to a company; i.e. 20%.
 - (ii) if the shareholder is a person other than a company, @ 10% for furnishing twelve digit TIN to the payer or 15% for who fails to furnish such TIN.

12.2.4 Grossing up of Dividend Income:

According to Section 54 of the ITO, 1984, dividend is paid to a shareholder after making necessary deduction of tax at source at prescribed rate. So the amount received by the shareholder is the net amount of dividend. For the purpose of taxation, the net dividend should be grossed up like interest on securities in the following way:

$$\text{Gross dividend} = \text{Net dividend} \times [100 \div (100 - \text{Rate of tax deducted at source})]$$

Note: For a person, being a resident or non-resident Bangladeshi, now the rate of tax deduction on source is 10% or 15%; for a non-resident foreigner 30% and for a company at the rate applicable to the company.

Explanation – 1: Mr. X is a Bangladeshi resident who has received Tk 18,000 as dividend from a Public Limited Company. So, the amount of gross dividend will be: Tk $[18,000 \times 100 \div 90] = \text{Tk. } 20,000$. Here the applicable TDS rate is 10%.

Explanation – 2: Mr. Y is a non-resident Bangladeshi who has received Tk 18,000 as dividend from a Public Limited Company. So, the amount of gross dividend will be: Tk $[18,000 \times 100 \div 90] = \text{Tk. } 20,000$. Here the applicable TDS rate is 10%

Explanation – 3: Mr. Z, an Indian citizen, is a non-resident who has received Tk 14,000 as dividend from a Public Limited Company. So, the amount of gross dividend will be: Tk $[14,000 \times 100 \div 70] = \text{Tk. } 20,000$. Applicable TDS rate is 30%, as Mr. Z is a non-resident foreigner.

Explanation – 4: AB Bank Ltd., a Bangladeshi Company, which has received Tk 8,000 as dividend against its investment in the shares of a Public Limited Company. So, the amount of gross dividend will be: Tk $[8,000 \times 100 \div 80] = \text{Tk. } 10,000$. Here applicable TDS rate is 20% i.e. the rate applicable to listed banking co.

Explanation – 5: Mr. X has received dividends: Tk. 27,000 from a listed Public Limited company; Preference dividend of Tk. 9,000 from a listed Public Limited company; Tk. 18,000 from an unlisted Company; Tk. 36,000 from a Private Limited Company; and Tk. 22,500 from ICB Unit Fund. His total dividend income should be Tk. 100,000. [Dividend from Public Ltd. Company $(27,000 \times 100 \div 90)$ Tk. 30,000 plus Preference dividend $(9,000 \times 100 \div 90)$ Tk. 10,000 plus Dividend from unlisted Company $(18,000 \times 100 \div 90)$ Tk. 20,000 plus Dividend from Pvt. Ltd Company $(36,000 \times 100 \div 90)$ Tk. 40,000] Though his dividend income from mutual trust fund is Tk. 25,000 $(22,500 \times 100 \div 90)$, nothing will be taxable as it is exempted up to Tk. 25,000. Besides, dividend income of Tk. 25,000 is also exempted from tax.

Explanation – 6: Mr. X has received dividends: Tk. 27,000 from ordinary shares of a listed Public Limited company; Tk. 18,000 from an unlisted Company; Tk. 36,000 from a Private Limited Company and Tk. 33,930 from ICB Mutual Fund. His dividend income should be Tk. 90,000. [Dividend from Public Ltd. Company $(27,000 \times 100 \div 90)$ Tk. 30,000 plus Dividend from unlisted Company $(18,000 \times 100 \div 90)$ Tk. 20,000 plus Dividend from Pvt. Ltd Company $(36,000 \times 100 \div 90)$ Tk. 40,000 plus Dividend from ICB Mutual Fund $\{(33,930 \times 100 \div 90)\}$ less: exempted up to Tk. 25,000] Tk. 12,700] Besides, dividend income of Tk. 25,000 is exempted from tax.

12.2.5 Chargeability of tax on dividend: summary at a glance:

Dividend from:	TDS rate	Exemption
Public limited company's ordinary/preference shares and dividend from private limited company	⇒ For resident/NRB – 10% or 15% ⇒ For any company @ applicable to the company i.e. 20% ⇒ For a NRF – 30%	Tk. 25,000
Mutual/Unit Fund	Same as above	Up to Tk. 25,000

Note: As TDS is deducted from any kind of dividend, grossing up is required in all cases considering the relevant TDS rate. [Here, NRB and NRF is non – resident Bangladeshi and non – resident foreigner]

12.3 INTEREST INCOME OTHER THAN INTEREST ON SECURITIES

'Interest' means interest payable in any manner in respect of any money borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the money borrowed or debt incurred or in respect of any credit facility which has not been utilized [u/s 2(38)]. Any interest which is not included under the head "Interest on Securities" will be included under the head "Income from Other Sources" [u/s 33(a)]. Such as, interest on savings instruments, interest on bank deposits, interest/profit from banks run on Islamic principles, leasing company, housing finance company or post office etc.

12.3.1 Interest income deemed to accrue or arise in Bangladesh: According to Section 18(4) of the ITO, 1984, the following interest incomes shall be deemed to accrue or arise in Bangladesh: any income by way of interest payable—

- (a) by the Government; or
- (b) by a person who is a resident, except where the interest is payable in respect of any debt incurred or moneys borrowed and used, for the purposes of a business or profession carried on by such person outside Bangladesh or for the purpose of making or earning any income from any source outside Bangladesh; or
- (c) by a person who is a non-resident where the interest is in respect of any debt incurred, or moneys borrowed and used for the purposes of a business or profession carried on by such person in Bangladesh or for the purposes of making or earning any income from any source in Bangladesh;

12.3.2 Tax exemption on Interest Income: Following amount of interest income is excluded from computation of total income under the head "Income from Other Sources":

- i) Interest accrued on Non-Resident Foreign Currency Deposit Account [SRO 415-L/82 dated 13.12.1982]
- ii) Interest or share of profit arising out of any Deposit Pension Scheme sponsored by the government or by a Scheduled Bank and approved by the Government (SRO 89-L-IT/2003 dated 02.04.2003 effective from 26.01.2003 with reference to Section 53F(3))
- iii) Interest amount up to Tk. 25,000 on Bangladesh Industrial Development Bond. But if the interest amount exceeds Tk. 25,000, 10% TDS is allowed on the whole interest amount and to be considered as minimum tax as per Section 82(c) [SRO 154-L/99 dated 10.06.1999]

12.3.3 Tax deducted at source from Interest Income:

- 1) Deduction at source from interest on savings deposits and fixed deposits etc. [Section – 53F]: Any person responsible for paying to a resident any sum by way of

Chapter – 12: Income from Other Sources

interest on any saving deposits or fixed deposits or any term deposit maintained with any scheduled bank including a co-operative bank, or bank run on Islamic principles or non-banking financial institution or any leasing company or housing finance company, as the case may be, shall deduct, at the time of credit of such interest or share of profit to the account of the payee or at the time of payment thereof, whichever is earlier, income tax on such sum at the following rate:

- (a) 10% where the accountholder furnishes his twelve digit TIN to the payer;
- (b) 15% where the accountholder fails to furnish his twelve digits TIN to the payer;
- (c) 10% where the person receiving such interest or share of profit is a public university, or an educational institution whose teachers are enlisted for Monthly Pay Order (MPO), following the curriculum approved by the Government and whose governing body is also formed as per Government rules or regulations, or any professional institute established under any law and run by professional body of Chartered Accountants, Cost and Management Accountants or Chartered Secretaries.

Provided that the tax rate will be 10% in case of savings deposit of which balance does not exceed Tk. 100,000 at any time in the year.

But if such deposit is maintained in the name of a fund, the rate of TDS will be 5% [Sec – 53F(2)]

As per Section 53F(3), it is provided that

- (a) no such tax is deducted on the amount of interest / profit on any kind of DPS sponsored by the government or by a scheduled bank with prior approval of the government.
- (b) to such payee or class of payees as the Board may, by a general or special order, specify.

- 2) **Deduction at source from interest on deposit of post office savings bank account [Section – 53I]:** According to Section 53I, 10% tax is deducted at source on any amount on account of interest of Post Office savings Bank Account at the time of credit to the account of the payee or at the time of payment thereof.

12.3.4 Grossing up of Interest Income: Interests which are paid after making necessary deduction for tax at source need to be grossed up. Interest on Bank deposits (Savings and Fixed deposits even from profit from Islami Bank), Post Office Savings Bank are paid after deducting 10% tax. [53F, 53I] So the amount received is the net amount of interest which needs to be grossed up as follows.

$$\text{Gross interest} = \text{Net interest} \times [100 \div (100 - \text{Rate of tax deducted at source})]$$

12.3.5 Chargeability of tax on interest: Summery at a glance:

Sources of Interest income	TDS rate	Exemption
1. Interest or profit on Savings/Fixed deposits from a Bank, co-operative bank, bank run on Islamic principles, non-banking financial institution, leasing company, housing finance company	10% but in case of no TIN 15%	No exemption is allowed.
2. Interest on Post Office Savings Bank	10%	No exemption is allowed.
3. Interest on Non-Resident Foreign Currency Deposit Account	Nil	Fully exempted

4. Interest on DPS sponsored by the government or by a scheduled bank with prior approval of the government.	Nil	Fully exempted
5. Interest on Bangladesh Industrial Development Bond	10%	Up to Tk. 25,000 exempted. if the interest amount exceeds Tk. 25,000, 10% TDS is allowed on the whole interest amount and to be considered as the minimum tax as per Section 82(c).

Note: As TDS is deducted from some kind of interest income, grossing up is required in all those cases considering the relevant TDS rate.

Explanation 1: Mr. X has received interest from fixed deposit Tk. 9,000, savings account Tk. 4,500, mortgage loan Tk. 2,500, DPS Tk. 2,000, Postal Savings Bank Tk. 3,600 and Profit from Islami Bank Tk. 4,500. His taxable interest income should be 26,500 combining Tk. 10,000 interest on fixed deposit ($9,000 \times 100 \div 90$), Tk. 5,000 on savings account ($4,500 \times 100 \div 90$), Tk. 2,500 on loan, Tk. 4,000 from Postal Savings Bank ($3,600 \times 100 \div 90$), Tk. 5,000 Profit from Islami Bank ($4,500 \times 100 \div 90$). Interest on DPS is fully exempted).

Explanation 2: Mr. Y has received interest from fixed deposit in DBH Tk. 9,000, Interest on deposit maintained in a leasing company Tk. 4,500, and Interest on Postal Savings Bank Tk. 45,000. His taxable interest income is Tk. 65,000 combining Tk. 10,000 interest on DBH fixed deposit ($9,000 \times 100 \div 90$), Tk. 5,000 on leasing co deposit ($4,500 \times 100 \div 90$), and Tk. 50,000 interest on Postal Savings Bank ($45,000 \times 100 \div 90$).

SELF REVIEW 12 – 1

Mr. Akmal has received Tk. 28,500 as interest on savings deposit kept in a commercial bank. Calculate the gross interest.

12.4 ROYALTY [SECTION 33(B)]

According to Section 2(56) of the ITO, 1984, "royalty" means consideration (including any lump sum consideration but excluding any consideration which is classifiable as income of the recipient under the head "Capital gains") for –

- (a) transfer of all or any rights, including the granting of a license in respect of a patent, invention, model, design, secret process or formula/trade mark or similar property;
- (b) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret process or formula/trade mark or similar property;
- (c) the use of any patent, invention, model, design, secret process or formula, or trade mark or similar property;
- (d) the imparting of any information concerning technical, industrial, commercial, or scientific knowledge, experience or skill;
- (e) the transfer of all or any rights, including granting of a license, in respect of any copyright, literary, artistic or scientific work, including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting, but not including consideration for sale, distribution/exhibition of cinematograph films;
- (f) the rendering of any services in connection with any of the aforesaid activities.

12.4.1 Royalty income deemed to accrue or arise in Bangladesh:

According to Section 18(6) of the ITO, 1984, following royalty income shall be deemed to accrue or arise in Bangladesh: Any income by way of royalty payable –

- (a) by the Government; or
- (b) by a person who is a resident, except where the royalty is payable in respect of any right, property or information used or services utilized for the purposes of a business or profession carried on by such person outside Bangladesh or for the purposes of making/earning any income from any source outside Bangladesh; or
- (c) by a person who is a non-resident where the royalty is payable in respect of any right, property or information used or services utilized for the purposes of a business or profession carried on by such person in Bangladesh or for the purposes of making or earning any income from any source in Bangladesh.

12.4.2 Chargeability of tax on royalty income:

According to the Section 36 of the ITO, 1984, royalty is a taxable income. If the author takes less than twelve months of time to complete the literary or artistic work the full amount of royalty will be considered as income of that income year when it is received. But, if the author of a literary or artistic work in the making thereof takes more than twelve months, the amount received or receivable by him during any income year in lump sum as royalties or copyright fees will be allocated in the following way –

Time taken to complete the literary work	Allocation on an equal basis among the income years
Less than 12 months	the income year in which it is received
More than 12 but less than 24 months	the income year in which it is received and the immediately preceding income year
More than 24 months	the income year in which it is received and the two immediately preceding income years

Note: (1) For the purposes of this section, the expression "author" includes a joint author and the expression "lump sum" in regard to royalties or copyright fees includes an advance payment on account of such royalties or copyright fees which is not returnable. **(2)** If 10% or 12% tax is deducted at source from such royalty income as per the Section 52A of the ITO, 1984, it is considered as minimum tax as per Section 82C.

Explanation 1: Mr. X has received a lump sum amount of Tk. 6,000 as royalty income in the income year 2016 - 2017. He has taken 11 months to complete the literary work. The allocation of the royalty income will be: Income year 2016 – 2017: Tk. 6,000 full.

Explanation 2: Mr. X has received a lump sum amount of Tk. 6,000 as royalty income in the income year 2016 - 2017. He has taken one and a half year to complete the literary work. The allocation of the royalty income will be: Income year 2015 – 2016: Tk. 3,000 and Income year 2016 – 2017 Tk. 3,000.

Explanation 3: Mr. X has received a lump sum amount of Tk. 6,000 as royalty income in the income year 2016 - 2017. He has taken two and a half years to complete the literary work. The allocation of the royalty income will be: Income year 2014 – 2015: Tk. 2,000, Income year 2015 – 2016: Tk. 2,000 and Income year 2016 – 2017: Tk. 2,000.

Note: If no clear instruction is given about the time taken to complete the literary work the full amount should be charged in current income year assuming that it has been completed in less than 12 months.

SELF REVIEW 12 – 2

Mr. Samad has received a lump sum amount of Tk. 9,000 as royalty income in the income year 2016 – 2017. The allocation of the royalty income will be, when – (a) he has taken 11 months to complete the literary work. (b) he has taken 18 months to complete the literary work. (c) he has taken 30 months to complete the literary work.

12.4.3 Tax deducted at source from Royalty Income: According to Section 52A (1), Where any payment is to be made by a specified person to a resident on account of royalties, franchise, or the fee for using license, brand name, patent, invention, formula, process, method, design, pattern, knowhow, copyright, trademark, trade name, literary or musical or artistic composition, survey, study, forecast, estimate, customer list or any other intangibles, the person responsible for making the payment shall, at the time of making payment, deduct income tax at the rate specified below:

Description of Payment	Rate of deduction of tax
Where base amount	
(a) does not exceed taka 25 lakh	10%
(b) exceeds taka 25 lakh	12%

Provided that the rate of tax shall be fifty percent (50%) higher if the payee does not have a twelve-digit Taxpayer's Identification Number at the time of making the payment.

Note: TDS from Royalty income etc. is the minimum tax from such amount u/s 82C.

12.4.4 Chargeability of tax on Royalty Income: Points to be remembered

1. If the royalty is received on a regular yearly basis, it is to be shown as the income in the year when it is received.
2. If the royalty is received in advance on a lump sum basis, it can be allocated up to maximum three years on the basis of the time to completion (See 12.4.2).
3. If the royalty is received from any specific person u/s 52(2), 10% to 12% TDS is applicable.
4. Royalty income is fully taxable as no exemption is allowed.

12.5 FEES FOR PROFESSIONAL AND TECHNICAL SERVICE [SECTION 33(B)]

"Fees for technical services" means any consideration (including any lump sum consideration) for the rendering of any managerial, technical or consultancy services (including the provision of services of technical or other personnel) but does not include consideration for any construction, assembly, mining or like project undertaken by the recipient, or consideration which would be income of the recipient classifiable under the head "Salaries" [u/s 2(31)].

12.5.1 Fees for Technical Services deemed to accrue or arise in Bangladesh:

According to Section 18(5) of the ITO, 1984, following fees for technical services shall be deemed to accrue or arise in Bangladesh. Any fees income for technical services payable—

- (a) by the Government; or
- (b) by a person who is a resident, except where such fees are payable in respect of services utilized in a business or profession carried on by any such person outside Bangladesh or for the purposes of making or earning any income from any source outside Bangladesh; or

- (c) by a person who is non-resident where such fees are payable in respect of services utilized in a business or profession carried on by such person in Bangladesh or for the purposes of making or earning any income from any source in Bangladesh.

12.5.2 Tax deducted at source from Fees for Professional and Technical Services:

The same provision which was applicable for royalty income above u/s 52A is applicable in this regard.

12.5.3 Chargeability of tax on Fees for Technical Services: Points to be remembered

- (a) Fees for Technical Services are taxable in the year when it is received or in the year when it is deemed to accrue or arise in Bangladesh.
- (b) It is considered minimum of tax liability as per Section 82(c).

Example: Mr. Y has received Fees for technical services from Hasan Traders Tk. 18,000. The base amount was Tk. 1 lac. His taxable income should be Tk. 20,000 [$18,000 \times 100 \div 90$] Tk. 20,000, which should also be considered as minimum tax liability as per sec 82(c).

12.6 INCOME FROM LETTING OF ASSETS [SECTION 33(C)]

Income from letting of machinery, plant or furniture belonging to the assessee and also building inseparable from the mentioned assets is taxable as income from other sources if the same is not chargeable to tax under the head "Income from Business or Profession under section 28" or under the head "Income from House Property under section 24". In this case the letting does not constitute a business activity. According to Section 34(3), profit on sale of the above assets i.e. if selling price is more than the written down value will be included under "Income from Other Sources". But the maximum limit is the difference between cost and WDV i.e. the revenue gain.

Example 1: Mr. X has received income from letting out personal car Tk. 5,000 and from letting out multimedia projector Tk. 10,000. Both of these two incomes are fully taxable and to be considered as income under the head "Income from Other Sources".

12.7 UNEXPLAINED INVESTMENTS DEEMED TO BE INCOME AS PER SECTION 19 [SECTION 33(D)]

Any income to which Section 19 (1), (2), (3), (4), (5), (8), (9), (10), (11), (12), (13), (21), (21A), (21B), (24), (26), (27), (28), (29) or (31) applies, will also be considered as deemed income and hence will be recorded under the head "Income from other sources". In the following paragraphs the explanations regarding income from other sources as per Section 19 of the ITO, 1984 are given:

Section 19(1):

Unexplained credits: Any sum credited in the books of an assessee maintained for any income year and the assessee offers no explanation about the nature and source thereof, or the explanation offered is not satisfactory, the sum so credited shall be deemed to be his income for that income year classifiable under the head "Income from other sources".

Explanation: Mr. X has shown cash credit of Tk. 5,000 in his books of account in the income year 2015-16 for which no satisfactory explanation is not given. The whole Tk. 5,000 will be considered as an income under the head "Income from other Sources".

Section 19(2):

Unexplained investments: Where, in any income year, the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article and the Deputy Commissioner of Taxes finds that the amount expended on making such

investments or in acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in this behalf in the books of account maintained by the assessee for any source of income and the assessee offers no explanation about the excess amount or the explanation offered is not satisfactory, the excess amount shall be deemed to be the income of the assessee for such income year classifiable under "Income from other sources".

Explanation: Mr. X has shown an investment of Tk. 15,000 against purchase of jewellery. But the DCT in his investigation has found that the actual value of jewellery purchased is Tk. 20,000. Here, the excess amount Tk. 5,000 will be considered as "Income from other Sources".

Section 19(3):

Unexplained expenditure: Where, in any income year, the assessee has incurred any expenditure and he offers no explanation about the nature and source of the money for such expenditure, or the explanation offered is not satisfactory, the amount of the expenditure shall be deemed to be the income of the assessee for such income year.

Explanation: In an investigation it has been found that Mr. X has visited India as a tourist where he spent Tk. 65,000 and in addition to it also purchased ornaments of Tk. 40,000 for his wife. He was not able to provide satisfactory explanation about the sources of this expenditure. The total unexplained expenditure of Tk. $(65,000 + 40,000) = \text{Tk. } 105,000$ will be considered as an income.

Section 19(4):

Unrecorded investments: Where, in the financial year immediately preceding the assessment year, the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of fund for the investments, or the explanation offered is not satisfactory, the value of the investments shall be deemed to be the income of the assessee for such financial year classifiable under "Income from other sources".

Explanation : Mr. X has made investments of Tk. 50,000 in the financial year preceding the assessment year and neither he has shown it in his books nor offers any satisfactory explanation regarding the source of fund. The invested amount Tk. 50,000 will be considered as an income.

Section 19(5):

Unrecorded money, jewellery etc.: Where, in the financial year immediately preceding the assessment year, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article which is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of fund for the acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered is not, in the opinion of the DCT, satisfactory, the money or the value of the bullion, jewellery or other valuable article, shall be deemed to be the income of the assessee for such financial year classifiable as income from other sources.

Explanation: In an investigation in the financial year immediately preceding the assessment year, it has found that Mr. X owns cash of Tk. 200,000; jewellery of Tk. 45,000, land of Tk. 200,000. Neither he has shown those in his books nor offers any satisfactory explanation regarding the source of fund. So, the unexplained asset of Tk. $(200,000 + 45,000 + 200,000) = \text{Tk. } 445,000$ will also be considered as an income under the head "Income from other Sources".

Section 19(8):

Purchase of assets at a price lower than the fair market value: Where any assets, not being stock-in-trade or stocks, and shares, are purchased by an assessee from any company and the DCT has reason to believe that the price paid by the assessee is less than the fair market

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value thereof, the difference between the price so paid and the fair market value shall be deemed to be income of the assessee under the head "Income from other sources".

Explanation: In an investigation, it has been seen that Mr. X claims that he has paid Tk. 1,000,000 to acquire a car from Navana Motors Ltd. But the fair market value of that car is Tk. 1,200,000 and the DCT has no reason to believe the explanation of the assessee. So the difference between the prices (reported and the fair value) i.e. Tk. 200,000 will also be considered as an income.

Section 19(9):

Salami or premium for granting leases: Where any lump sum amount is received or receivable by an assessee during any income year on account of salami or premia receipts by virtue of any lease, such amount shall be deemed to be income of the assessee of the income year in which it is received and classifiable under "Income from other sources".

Explanation: In an investigation, it has been seen that Mr. X has received Tk. 12,000 on account of salary in the income year 2008 – 09 by virtue of a lease. So Tk. 12,000 will be recorded as an income under the head "Income from other Sources".

Section 19(10):

Goodwill money or compensation: Where any amount is received by an assessee during any income year by way of goodwill money or receipt in the nature of compensation or damages for cancellation or termination of contracts and licenses by the Government or any person, such amount shall be deemed to be the income of such assessee for that income year classifiable under the head "Income from other sources".

Explanation: In an investigation, it has been seen that Mr. X has received Tk. 35,000 as compensation from a party for cancellation of contracts. This Tk. 35,000 will also be considered as an income under the head "Income from other Sources".

Section 19(11):

Benefit or advantage on account of cancellation of indebtedness: Where any benefit or advantage, whether convertible into money or not, is derived by an assessee during any income year on account of cancellation of indebtedness the money value of such benefit shall be deemed to be his income for that income year as "Income from other sources".

Explanation: In an investigation, it has been seen that Mr. X has got a benefit of Tk. 15,000 from his bank on account of cancellation of indebtedness. Hence, Tk. 15,000 will also be considered as an income under the head "Income from other Sources".

Section 19(12):

Managing agency commission: Any managing agency commission including compensation received during any income year by an assessee for termination of agencies or any modification of the terms and conditions relating thereto shall be deemed to be his income for that income year classifiable under the head "Income from other sources".

Explanation: In an investigation, it has been seen that Mr. X has received Tk. 10,000 as commission for termination of agency. Here, Tk. 10,000 will be considered as "Income from other Sources".

Section 19(13):

Winning from lotteries, crossword prizes etc.: Any amount received by an assessee during any income year by way of winnings from lotteries, crossword puzzles, card games and other games of any sort or from gambling or betting in any form or of any nature whatsoever shall be deemed to be his income for that income year classifiable under the head "Income from other sources".

Explanation: Mr. X has received Tk. 100,000 from lottery, Tk. 10,000 as a reward from prize bond, Tk. 10,000 from betting and Tk. 40,000 for being man of the match in a game. Tk. (100,000 + 10,000 + 10,000 + 40,000) = 160,000 will also be considered as an income under the head "Income from other Sources". But from all those items full amount can be deducted assuming as minimum tax under section 82(c).

Section 19(21):

Unpaid loan: Where any sum, or aggregate of sums not exceeding Tk. 5,00,000 is claimed or shown to have been received as loan by an assessee, not being a company during any income year from any person, not being a banking company or a financial institution, otherwise than by a crossed cheque drawn on a bank, and has not been paid back in full within three years from the end of the income year in which it is claimed or shown to have been received, the said sum or part thereof which has not been paid back, shall be deemed to be the income of the assessee for the income year immediately following the expiry of the said [three years] and be classifiable under the head "Income from other sources".

Explanation: Mr. X has received loan of Tk. 150,000 from one of his friend on 1st July 2012 and has not yet been paid back. In this case Tk. 150,000 will be shown under the head "Income from other Sources" as three years have expired.

Section 19(21A):

Loan or gift received under some circumstances: Where any sum is claimed to have been received by an assessee as loan or gift during any income year from a person who has transferred the sum within the period of limitation stipulated in the rule made under this Ordinance, from the initial capital of his business or profession shown in his return filed under section 83A, the amount of such loan or gift so received by the assessee shall be deemed to be his income of the year in which such loan or gift was received and shall be classifiable under the head "income from other sources".

Explanation: Mr. X has received a gift of Tk. 50,000 from Mr. Y who has transferred the fund through a crossed check from his office three years ago and has not yet been paid back. In this case Tk. 55,000 will be shown under the head "Income from other Sources".

Section 19(21B):

Transfer of initial capital: Where any sum, shown as initial capital of business or profession in return of income filed under section 82BB, is transferred by a person partly or fully from that business or profession within the period of limitation stipulated in the said section, the sum so transferred shall be deemed to be his income of the year in which such sum was transferred and shall be classifiable under the head "Income from other sources".

Explanation: X has shown Tk. 200,000 as initial capital which was restricted to be withdrawn within 3 years. But after one year he has transferred Tk. 100,000 to one of his other ventures. In this case Tk. 100,000 will be shown under income from other sources as the amount has been transferred partly by X within the period of limitation stipulated.

Section 19(24):

Disclosing investment in equity of an unlisted company: Where a company, not listed with any stock exchange, receives paid up capital from any shareholder during any income year in any other mode excepting by crossed check or bank transfer, the amount so received as paid up capital shall be deemed to be the income of such company for that income year and be classifiable under the head "Income from other sources".

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Explanation: X Ltd., a Private Limited Company, has issued additional 10,000 shares @ Tk. 10 each to increase the paid up capital and the proceed has been received in form of cash. In this case Tk. 100,000 will be shown under the head “Income from other Sources” as the amount has not been received by cross check or bank transfer.

Section 19(26):

Loan taken by a company otherwise than by a crossed check or bank transfer: Where an assessee, being a company, receives any amount as loan from any other person otherwise than by a crossed cheque or by bank transfer, the amount so received shall be deemed to be the income of such assessee for that income year in which such loan was taken and shall be classifiable under the head “Income from other sources”

Explanation: X Ltd., a Private Limited Company, has borrowed Tk. 1,000,000 from Y Ltd. in cash. In this case Tk. 1,000,000 will be shown under the head “Income from other Sources” as the amount has not been received by cross check or bank transfer.

Section 19(27):

Purchase or hire of car at a price exceeding 10% of paid up capital: Where an assessee, being a company, purchases directly or on hire one or more motor car or jeep and value of any motor car or jeep exceeds ten percent of its paid up capital, then fifty percent of the amount that exceeds such ten percent of the paid up capital shall be deemed to be the income of such assessee for that income year classifiable as “Income from other sources”

Explanation: X Ltd., a Private Limited Company, has a paid up capital of Tk. 10,000,000. The company has purchased a car at a price of Tk. 1,500,000. In this case, 50% of the amount that exceeds such ten percent of the paid up capital i.e. 50% of $(1,500,000 - 1,000,000) = 50\%$ of Tk. 500,000 = Tk. 250,000 will be shown as income from other sources.

Section 19(28):

Loan or gift taken by an assessee otherwise than by a crossed check or by bank transfer [Section 19(28)]: Where an assessee, being an individual, receives any sum or aggregate of sums exceeding Tk. Five lakh as loan or gift from any other person otherwise than by a crossed check or by bank transfer, the amount so received shall be deemed to be the income of such assessee for that income year in which such loan or gift was taken and shall be classified under the head “Income from other sources”.

Provided that nothing in this sub-section shall be applicable to a loan or gift from spouse or parents if any banking or formal channel is involved in the process of such loan or gift.

Explanation: Mr. X has borrowed Tk. 1,000,000 from Mr. Y in cash. In this case Tk. 1,000,000 will be shown under the head “Income from other Sources” as the amount has not been received by cross check or bank transfer.

Section 19(29):

Defaulter in due payment for purchase by real estate business [Section 19(29)]: Where an assessee, not being an assessee engaged in real estate business during any income year, purchases on credit any material for the purpose of construction of building or house property or its unit and fails to pay the sum or any part thereof representing the liability in respect of such purchase, the sum or any part thereof, which has not been paid which has not been paid within two years from the end of the income year in which the purchase was made, shall be deemed to be the income of the assessee for the income year immediately following the expiry of the said two years and be classifiable under the head “Income from other sources”.

Explanation: ABC Builders Limited has purchased material of Tk. 100,000 on account for the purpose of construction of building during income year 2013-14 and failed to pay the amount due within the following two income years 2014-15 and 2015-16. In this case Tk. 100,000 will be shown under the head "Income from other Sources".

Section 19(31):

Difference in the amount of the exempted incomes shown in revised return and the original return [Section 19(31)]: Where an assessee files a revised return or an amended return under sections 78, 82BB or 93 and shows in such revised return or amended return any income that is subject to tax exemption or a reduced tax rate, so much of such income as exceeds the amount shown in the original return shall be deemed to be income of the assessee for that income year classifiable under the head "Income from other sources".

Explanation: Mr. X has shown Tk. 50,000 as his Pension income in the original return. But later he has shown Tk. 80,000 as pension income in the revised return under sections 78 or 93. In this case Tk. 30,000 will be shown under the head "Income from other Sources".

12.8 INCOME NOT CLASSIFIED UNDER ANY HEAD [SECTION 33(E)]

According to Section 20 of the ITO, 1984, for the purpose of charge of income tax and computation of total income, seven heads of income are used, namely salaries, interest on securities, income from house property, agricultural income, income from business or profession, capital gains and income from other sources. As per Section 33(e) of the ITO, 1984, incomes which don't fall under any of the first six categories, will be included under the head "income from other sources". But according to Income Tax Rule – 24 it has been seen that in the "Specimen Form of Income under the ITO, 1984 – Part II" total 10 heads has been given. Among those the additional heads are Share of profit in a firm, Income of the spouse or minor child as applicable u/s 43(4) and foreign income. So, incomes which don't fall under any category of the above nine items will fall under the head "Income from Other Sources". Examples of such income are as follows:

1. Sum received by virtue of position/service (not from employer) like Director's fee.
2. Insurance commission
3. Honorarium from writing articles in newspapers, magazines or journals.
4. Remuneration as examiner and invigilator.
5. Income received from vacant land adjacent to assessee's house.
6. Royalty from mines.
7. Income from Ferry Ghat.
8. Income from Tuition.
9. Income from undeclared money, bribe or black money, if identified.
10. Income from agriculture received from abroad.
11. Income from underwriting commission for sale of shares and securities.
12. Income received from foreign government as salary or pension.
13. Income from non-resident husband / wife.
14. Income from patent / license.
15. Income from Television or Radio for participating in a program.
16. Non-agricultural income like sale of forest timber/fruits/honey/fish (other than firm)
17. Income from rent of boat.
18. Income from letting out household appliances like furniture, machineries;
19. Income from sub-letting of a house property by a tenant;
20. Casual income;

21. Income from undisclosed sources;
22. Interest on securities of foreign governments;
23. Interest received on delayed refund;
24. Any other income not classified under any head.

12.9 ALLOWABLE DEDUCTIONS [SECTION 34]

Following expenses are allowed to deduct from “Income from Other Sources” (Section 34):

- (a) The amount of interest paid in respect of money borrowed for the purpose of acquisition of shares of a company.
- (b) Any expenditure, not capital expenditure in nature or personal expenses of the assessee, incurred solely for the purpose of making or earning the relevant income.
- (c) Where the income is derived from letting on hire of machinery, plant or furniture belonging to the assessee and also of building belonging to him if the letting of the building is inseparable from the letting of such machinery, plant or furniture, the same allowances as are admissible under section 29(1) (vi), (vii) and (xi) to an assessee. Such as, rent, repair expense, insurance expense, loss on sale of assets etc.

12.10 INADMISSIBLE DEDUCTIONS [SECTION 34(4)]

Notwithstanding anything contained in this section, no allowance shall be made on account of -

- (a) any interest chargeable under this Ordinance which is payable outside Bangladesh on which tax has not been paid and not been deducted at source under section 56; or
- (b) any payment which is chargeable under the head “Salaries” if tax has not been paid thereon or deducted there from under section 50.

12.11 RATE OF INCOME TAX REGARDING INCOME FROM LOTTERY, WINNING PRIZES ETC. [SECTION – 55]

According to Section 55 of the ITO, 1984, the person responsible for paying any amount of winning from lotteries, crossword puzzles, card games and other games of any sort or from gambling or betting in any form or of any nature whatsoever shall, at the time of making such payment, deduct tax payable on the amount at the rate of **twenty (20%) percent**. This is considered as minimum of tax under section 82(c).

12.12 EXAMPLES OF SOME INCOMES WHERE MINIMUM TAX IS APPLIED ON THE BASIS OF THE SECTION 82C:

1. Tax deducted on certain income is considered as minimum tax as per section 82C of IT Ordinance 1984. The provisions in this regard are as follows with section reference:

Sources of income on which TDS is considered as minimum tax:

Sources of Income	Reference
1. Payments on account of execution of contract	52
2. Payment on account of royalties, franchise, or the fee for using license, brand name, patent, invention, formula, process, method, design, pattern, knowhow, copyright, trademark, trade name, literary or musical or artistic composition, survey, study, forecast, estimate, customer list or any other intangibles.	52A
3. Commission of Clearing & Forwarding (C&F) Agents	52AAA
4. Banderole price to Cigarette Manufacturers	52B
5. Compensation against Acquisition of Property	52C

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6. Interest on Savings Instruments	52D
7. Travel agent's commission	52JJ
8. Payment to any rental power company on account of purchase of rental power from that company	52N
9. Salaries of foreign technician serving in a diamond cutting industry	52O
10. Payment on account of International Gateway (IGW) Services in respect of international phone call receipt	52R
11. Value of imported goods	53
12. Total freight received or receivable by a ship owned or chartered by a resident assessee	53AA
13. Income Derived from Export of Manpower	53B
14. Export of Certain Items (knit wear and woven garments, terry towel, carton and accessories of garments industry, jute goods, frozen food, vegetables, leather goods, packed food)	53BB
15. Total value of the shares, debentures, mutual funds, or securities transacted (buy and sell) by a member of stock exchange.	53BBB
16. Export of any goods except knit wear and woven garments, terry towel, carton and accessories of garments industry, jute goods, frozen food, vegetables, leather goods, packed food)	53BBBB
17. Public Auction	53C
18. Courier business of a non-resident	53CCC
19. Export Cash Subsidy	53DDD
20. Deduction or collection at source from commission, discount or fees.	53E
21. Commission or Remuneration paid to Agent of Foreign Buyer	53EE
22. Interest on Savings or Fixed Deposits	53F
23. Registration Cost through Real Estate or Land Development Business	53FF
24. Insurance Commission	53G
25. Remuneration or fees for conducting any survey regarding settlement of claim of insurance	53GG
26. Transfer of Property	53H
27. Transfer of securities or mutual fund units by sponsor shareholders of a company etc.	53M
28. Transfer of share of Stock Exchange	53N
29. Income from winning / lottery	55

Provided that the tax deducted or collected from the following sources shall not be the minimum tax:

- i. Tax collected under section 52 from the following persons-
 - a. a contractor of an oil company or a subcontractor to the contractor of an oil company as may be prescribed;
 - b. an oil marketing company and its dealer/agent excluding petrol pump station;
 - c. any company engaged in oil refinery;
 - d. any company engaged in gas transmission or gas distribution;
- ii. tax deducted under section 53 from import of goods by an industrial undertaking as raw materials for its own consumption;

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- iii. tax deducted under section 53F from a source other than the sources mentioned in clause (c) of sub-section (1) and sub-section (2) of that section;
2. for the sources of income for which minimum tax is applicable, books of accounts shall be maintained in the regular manner in accordance with the provisions of section 35;
3. income from any source, for which minimum tax is applicable under this sub-section, shall be determined in regular manner and tax shall be calculated by using applicable rate on such income. If the tax so calculated is higher than the minimum tax under clause (a), the higher amount shall be payable on such income:

Provided that income shall be determined and tax shall be calculated for certain sources in the manner as specified in the following -

Amount that will be taken as income	Rate or amount of tax
amount of compensation as mentioned in section 52C	as mentioned in section 52C (2% or 1% as the case may be)
amount of interest as mentioned in section 52D	as mentioned in section 52D (5% as the case may be)
amount of export cash subsidy as mentioned in section 53DDD	as mentioned in section 53DDD (3% as the case may be)
amount of interest as mentioned in section 53F [53F(1)(c) and (2)]	As mentioned in section 53F (10%, 15% or 5% as the case may be)
Deed value as mentioned in section 53H	As mentioned in section 53H and the rule made thereunder.

4. Income or loss computed in accordance with clause (d) or the proviso of clause (d) shall not be set off with loss or income, respectively, computed for any regular source.

SPECIMEN FORM FOR COMPUTING “INCOME FROM OTHER SOURCES”

Income from Other Sources:	Tk.	Tk.
1) Dividend from ICB Mutual fund / other unit fund [Dividend \times 100 \div 90] Less: Exempted (up to Tk. 25,000)	XX XX	XX
2) Dividend from public or private ltd. Co. [Dividend \times 100 \div 90] Less: Exempted (up to Tk. 25,000)	XX XX	XX
3) Interest from Bank deposit / profit from Islami Bank [Interest \times 100 \div 90]		XX
4) Interest on Post Office Savings Bank & Postal Savings Certificate [Interest received \times 100 \div 90]		XX
5) Any commission/fee received from parties other than employer		XX
6) Income from prize bond / lottery / quiz competition / crossword		XX
7) Royalty income from books/mine/Ferri		XX
8) Income / commission / fee as remuneration of Director		XX
9) Non-agricultural income like sale of forest trees, sale of fruits, sale of honey, sale of fish of pond (other than firm) etc		XX
10) Income from invigilation & exam script evaluation		XX
11) Income from writing articles / columns in newspapers		XX
12) Income from participating in radio / TV/ cultural programs		XX
13) Income from lease of non-agricultural land		XX
14) Income from Tuition		XX
15) Income from underwriting commission for sale of shares and securities.		XX

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16) Income from non-resident husband/wife (If not brought through banking channel)		XX
17) Income from patent / license		XX
18) Income from rent of boat / mooring terminal		XX
19) Income from letting out household appliances like furniture etc		XX
20) Unexplained Investments deemed to be Income u/s 19		XX
21) Any other income not classified under any head		XX
Less- Allowable deductions:		XX
Interest on loan taken to purchase share and securities	XX	
Any revenue expenditure incurred for making earnings	XX	XX
Total		<u>XX</u>

Illustration 12 – 1:

Compute taxable income for Mr. Zaman considering his income for the year includes following different sources.

Dividend from a Private Limited Company Tk. 4,500; Interest on Fixed Deposits Tk. 2,700; Interest on Post Office Savings Bank Tk. 1,800; Remuneration for exam script evaluation and invigilation Tk. 1,000; Prize of winning Prizebonds lottery Tk. 24,000; Sale of Fish of Pond Tk. 1,000; Sale of Tree and bamboo Tk. 1,500; Income from copyright and royalty Tk. 4,000; Remuneration as Director Tk. 15,000; Income from marriage anniversary Tk. 5,000; and Income from license Tk. 2,000. During the year he has purchased jewellery of Tk. 125,000 the source of which has not been explained to the DCT. During the year he has paid Tk. 200 as license renewal fee and Tk. 800 as interest on loan taken to purchase the shares of private limited company.

Solution 12 – 1:

Assessee: Mr. Zaman		
Assessment year: 2017 – 2018; Income year: 2016 – 2017		
Income from Other Sources (Section – 33):	Tk.	Tk.
(a) Dividend from Pvt. Ltd. Co. $[4,500 \div 90 \times 100]$	5,000	
Less: Exempted	<u>25,000</u>	-
(b) Int. on Fixed Deposits $(2,700 \div 90 \times 100)$		3,000
(c) Int. on Post Office Savings Bank $(1,800 \div 90 \times 100)$		2,000
(d) Remuneration for exam script evaluation		1,000
(e) Prize of Prize bond lottery $(24,000 \div 80 \times 100)$		30,000
(f) Sale of Fish of Pond		1,000
(g) Sale of tree and bamboo		1,500
(h) Income from copyright and royalty		4,000
(i) Remuneration as Director		15,000
(j) Income from marriage anniversary	5,000	-
Less: Exempted (full)	<u>5,000</u>	
(k) Income from license		2,000
(l) Unexplained investment to purchase jewellery		<u>125,000</u>
Less: Allowable deductions:		184,500
License renewal fee	200	
Interest on loan	<u>800</u>	1,000
Total		<u>183,500</u>

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Notes: (1) Assuming copyright and royalty has been received from a person, hence no TDS is allowed. (2) Income from marriage anniversary is a gift hence exempted from income tax.

Illustration 12 – 2:

Mr. Mustaq has earned the given incomes for the year 2016 – 17. Compute taxable income of Mr. Mustaq considering his Dividend from ICB Mutual Fund (gross amount) Tk. 30,000; Profit on Islami Bank Mudaraba Savings Scheme Tk. 2,700; Income from royalty of a book Tk. 2,000; Income received from a part-time job Tk. 10,000; Prize of winning Crosswords Tk. 1,600; Income from letting out household machineries Tk. 1,000; Sale of forest timber Tk. 1,500; Income from rent of a shop owned by him Tk. 4,000; Gain from loan amortization Tk. 10,000; Income from a newspaper for column writing Tk. 5,000; and Income from unused leased land Tk. 2,000. During the year he spent Tk. 200,000 on a party in Hotel Radisson, the source of expenditure remained unexplained to the DCT. He has also visited Singapore incurring a total cost of Tk. 100,000 and purchased a Diamond set of Tk. 175,000 for his wife for which the source of the money was unexplained. He has paid Tk. 200 commission for collecting the dividend and Tk. 800 as interest on loan taken to purchase the shares of public limited company.

Solution 12 – 2:

Assessee: Mr. Mustaq Assessment year: 2017 – 2018 Income year: 2016 – 2017		
	Tk.	Tk.
Income from Other Sources (Section – 33):		
(a) Dividend from ICB Mutual Fund	30,000	
Less: Exempted – Up to Tk. 25,000	<u>25,000</u>	5,000
(b) Profit on Islami Bank Scheme ($2,700 \div 90 \times 100$)		3,000
(c) Income from royalty of a book		2,000
(d) Income received from a part-time job		10,000
(e) Prize of winning crosswords ($1,600 \div 80 \times 100$)		2,000
(f) Income from letting out household machineries		1,000
(g) Sale of forest timber		1,500
(h) Income from rent of a shop		4,000
(i) Gain from loan amortization		10,000
(j) Income from newspaper column writing		5,000
(k) Income from unused leased land		2,000
(l) Unexplained investments:		
Party in hotel	200,000	
Travel to Singapore	100,000	
Purchase of Diamond jewellery	<u>175,000</u>	
		<u>475,000</u>
		520,500
Less: Allowable deductions:		
Commission for collecting dividend	200	
Interest on loan	<u>800</u>	1,000
Total		<u>519,500</u>

Notes: (1) Dividend from ICB Mutual Fund is exempted up to Tk. 25,000.

Illustration 12 – 3:

Compute taxable income of Mr. Jaber for the income year 2016 -17 considering:

- (a) Dividend from a listed company Tk. 36,000;
- (b) Profit on Islami Bank Mudaraba Savings Scheme Tk. 2,700;
- (c) Honorarium from a Symposium Tk. 35,000;
- (d) Honorarium received as a resource person for providing training Tk. 5,000;
- (e) Royalty income from government Tk. 1,800;
- (f) Commission received as insurance agent Tk. 9,500;
- (g) Prize of winning Crosswords Tk. 2,400;
- (h) Commission from clearing and forwarding agency business Tk. 6,300;
- (i) Amount received as Director's fee Tk. 1,500;
- (j) Income from private tuition in a Coaching Center Tk. 10,000;
- (k) Income from a newspaper for column writing Tk. 5,000; and
- (l) Income from delivering a speech in a seminar Tk. 3,500.

During the year he spent Tk. 200,000 on the marriage ceremony of his only daughter, the source of expenditure remained unexplained to the DCT. He has also visited India along with his family where he spent Tk. 100,000 and purchased a jewellery set of Tk. 50,000 for his wife for which the source of the money was unexplained. During the year he has paid Tk. 200 as commission for collecting the dividend and Tk. 800 as interest on loan taken to purchase the shares of public limited co.

Solution 12 – 3:

Assessee: Mr. Jaber
Assessment year: 2017 – 2018
Income year: 2016 – 2017

Income from Other Sources (Section – 33):	Tk.	Tk.
(a) Dividend of a listed company $(36,000 \div 90 \times 100)$	40,000	
Less: Exempted	25,000	15,000
(b) Profit. on Islami Bank $(2,700 \div 90 \times 100)$		3,000
(c) Honorarium for attending a Symposium		35,000
(d) Honorarium from a training program		5,000
(e) Royalty income from government $(1,800 \div 90 \times 100)$		2,000
(f) Commiss. received as ins. Agent $(9,500 \div 95 \times 100)$		10,000
(g) Prize of winning Crosswords $(2,400 \div 80 \times 100)$		3,000
(h) Commission from clearing and forwarding agency business $(5,950 \div 85 \times 100)$		7,000
(i) Director's fee		1,500
(j) Income from private tuition		10,000
(k) Income from newspaper column writing		5,000
(l) Income from speech		3,500
(m) Unexplained investments: Expenditure in daughter's marriage	200,000	
Travel to India	100,000	
Purchase of jewellery set	50,000	350,000
Less: Allowable deductions:		450,000
Commission for collecting dividend	200	
Interest on loan	800	1,000
Total		<u>449,000</u>

Chapter – 12: Income from Other Sources

Illustration 12 – 4:

Compute taxable income for Mrs. Zaman considering income for the income year 2016 – 2017 as:

- (a) Dividend from ICB Unit Fund Tk. 31,500;
- (b) Interest on Post Office Savings Bank Tk. 36,000;
- (c) Fees for Technical services from Government Tk. 18,000;
- (d) Prize of winning Prize bonds lottery Tk. 20,000;
- (e) Receipt of salami for granting leases Tk. 10,000;
- (f) Compensation money received for contract termination Tk. 15,000;
- (g) Income from copyright and royalty Tk. 4,000;
- (h) Interest on fixed deposit maintained in a leasing company Tk. 9,000; and
- (i) Income from participating in a Television Talk Show Tk. 2,000.

During the year she has purchased a Flat at Tk. 1,000,000. After an investigation by the DCT it has been found that the Fair Market value of the Flat is Tk. 1,175,000.

Solution 12 – 4:

Assessee: Mrs. Zaman		
Assessment year: 2017 – 2018; Income year: 2016 – 2017		
Income from Other Sources (Section – 33):	Tk.	Tk.
(a) Dividend from ICB Unit Fund $[31,500 \div 90 \times 100]$	35,000	
Less: Exempted – Upto 25,000	25,000	10,000
(b) Interest on Post Office Savings Bank $[36,000 \div 90 \times 100]$		40,000
(c) Fees for Govt. Technical service $[18,000 \div 90 \times 100]$		20,000
(d) Prizebonds's Lottery $[20,000 \div 80 \times 100]$		25,000
(e) Salami for leases		10,000
(f) Compensation		15,000
(g) Income from Copyright and Royalty		4,000
(h) Int. on Fixed Deposits on a leasing Co. $[9,000 \div 90 \times 100]$		10,000
(i) Income from Talk Show		2,000
(j) Unexplained investments $[1,175,000 - 1,000,000]$		175,000
Total		<u>311,000</u>

Notes: (1) Assuming copyright and royalty has been received from a person, hence no TDS is allowed. (2)

Illustration 12 – 5:

Mr. Salam has earned following incomes for the year 2016 – 2017:

- (a) Salary Tk. 600,000;
- (b) Dividend from preference shares of a Public Limited Company Tk. 4,500;
- (c) Dividend from ICB Mutual Fund Tk. 18,000;
- (d) Income from underwriting shares of a Company Tk. 3,000;
- (e) Income from mooring terminal Tk. 15,000;
- (f) Interest on Savings Bank Deposit Tk. 2,700;
- (g) Honorarium received as a director to be a member of the Board Tk. 1,000;
- (h) Interest on loan given to a friend Tk. 1,500;
- (i) Income from consultancy work not related to his profession Tk. 4,000;
- (j) Income from participating in a training program Tk. 10,000;
- (k) Income from Birthday Party Tk. 5,000; and
- (l) Income from lump sum royalty of a book Tk. 80,000. It took him two years to write the book.

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During the year he spent Tk. 200,000 to purchase a piece of land, Tk. 90,000 to purchase a motorcycle and the source of expenditure remained unexplained to the DCT. Through investigation, the DCT has also identified an FDR of Tk. 500,000 in a local bank which has also not been explained. He has also visited India incurring a total cost of Tk. 100,000 and purchased a Diamond set of Tk. 100,000 for his wife for which the source of the money was also unexplained. During the year he has paid Tk. 500 as commission for collecting the interest.

His other expenditures during the year were:

- (i) Purchase of Books and Magazine Tk. 5,000;
- (ii) Donation to President's Relief Fund Tk. 200,000;
- (iii) Contribution to a deposit pension scheme Tk. 12,000;
- (iv) Purchase of a cow for "Qurbani" Tk. 15,000;
- (v) Purchase of a Laptop Tk. 130,000 and
- (vi) Purchase of Primary Shares Tk. 30,000.

Compute taxable income and tax liability of Mr. Salam for the assessment year 2017-18 considering TDS from his salary during the year was Tk. 40,000.

Solution 12 – 5:

Assessee: Mr. Salam
Assessment year: 2017 – 2018
Income year: 2016 – 2017
Computation of taxable Income

	Tk.	Tk.	Tk.
Income from Salary (Sec – 21)			600,000
Income from Other Sources (Sec – 33):			
(a) Dividend from Pref. share $[4,500 \div 90 \times 100]$	5,000		
Less: Exempted – Up to Tk. 25,000	5,000		
(b) Dividend from ICB Mutual Fund $[18,000 \div 9 \times 10]$	20,000		
Less: Exempted – Up to Tk. 25,000	20,000		
(c) Income from underwriting shares		3,000	
(d) Income from mooring terminal		15,000	
(e) Interest on Savings bank deposit $[2,700 \div 9 \times 10]$		3,000	
(f) Honorarium received		1,000	
(g) Interest on loan given to a friend		1,500	
(h) Income from consultancy work		4,000	
(i) Income from training program		10,000	
(j) Income from royalty of a book (50%)		40,000	
(k) Unexplained investments (note – 2)		990,000	
		<u>1,067,500</u>	
Less: Allowable deductions:			
Commission for collecting interest		<u>500</u>	
			1,067,000
Total			<u><u>1,667,000</u></u>

Calculation of Tax liability:

		Rate	Tk.
On the first	Tk. 250,000	0%	Nil
On the next	400,000	10%	40,000
On the next	500,000	15%	75,000
On the next	<u>517,000</u>	20%	<u>103,400</u>
Total	1,667,000		218,400
Less: investment tax credit (342,000 × 15%) [note - 3]			48,540
Less: TDS (40,000+500+2,000+300)			<u>42,800</u>
Net tax liability			<u>127,060</u>

Note:

(1) Dividend from ICB Mutual Fund is exempted up to Tk. 25,000.

(2) Unexplained investment includes:

- Tk. 200,000 for Purchase of land,
- Tk. 90,000 for Purchase of motorcycle,
- Tk. 500,000 for FDR in Bank,
- Tk. 100,000 for travel to India, and
- Tk. 100,000 for purchase of diamond set.

(3) Actual Allowable Investment is Tk. 342,000 [combining donation to relief fund, DPS, laptop (max. 100,000) and share purchase]. Maximum limit of allowable investment for tax rebate is lower of 25% of total income ($1,667,000 \times 25\%$) = Tk. 416,750 or Tk. 15,000,000.

Here, actual amount of investment allowance is within the maximum limit.

So, investment allowance for tax rebate in the assessment year 2016 – 2017 will be Tk. 342,000.

So, eligible rebate will be $[(250,000 \times 15\%) + (92,000 \times 12\%)] = 48,540$

KEY POINTS

1. The incomes other than from salary, Interest on securities, house property, Agricultural income, business or profession and capital gains will be included under the head "Income from Other Sources".
2. Examples of income from other sources are dividend and interest; royalties and fees for technical services; income from letting of machinery/plants/furniture/belongings etc.
3. The term dividend does not include any bonus share issued by a company.
4. Any income from dividend of a mutual fund or a unit fund is exempted up to Tk. 25,000.
5. The rate of TDS from dividend for a person other than a company is 10% if he/she is a resident assessee or non –resident Bangladeshi having TIN.
6. Dividend is paid after making necessary deduction for tax at source. So the amount received by the shareholder is the net amount of dividend which need to be grossed up for the purpose of taxation.
7. TDS applicable on interest on Savings Instruments is subject to final payment of tax liability.
8. Any unexplained expenditure or investment will be treated as "Income from other sources".
9. Any income not classified under any head will be considered as income under this head.
10. Income from this head can use to set off losses under other head except capital gain and speculation business.

Multiple choice questions:

1. Income from other sources excludes –
 - (a) Dividend income
 - (b) Interest income
 - (c) Foreign income
 - (d) Royalties
2. Under which section provisions regarding unexplained investments have been given? –
 - (a) 19
 - (b) 20
 - (c) 21
 - (d) 22
3. Dividend income does not include –
 - (a) Any distribution by a company of accumulated profits
 - (b) Distribution of profit against preference shareholders
 - (c) Profit against ICB Mutual Fund
 - (d) Bonus share
4. The applicable tax rate of TDS on dividend income for a non-resident Bangladeshi is –
 - (a) 5%
 - (b) 10%
 - (c) 15%
 - (d) 20%
5. From which income no tax is deducted at source?–
 - (a) Profit from Islami Bank Mudaraba Savings Scheme
 - (b) Dividend income against preference shares.
 - (c) Interest on fixed deposits
 - (d) Interest on Pensioner Sanchayapatra
6. In case of Interest on 5 year Bangladesh Savings Certificate; applicable rate for tax deduction at source will be –
 - (a) 5%
 - (b) 10%
 - (c) 15%
 - (d) 20%
7. Which income will be included under the head “Income from Other Sources” –
 - (a) Interest on deposit pension scheme
 - (b) Interest on savings certificates
 - (c) Interest on security
 - (d) Income of minor child.
8. Minimum tax is considered as per section–
 - (a) 80(c)
 - (b) 81(c)
 - (c) 82(c)
 - (d) 83(c)
9. Tk. 27,000 received as dividend from ICB Mutual Fund; will be added in the total income by –
 - (a) 27,000
 - (b) 3,000
 - (c) 30,000
 - (d) 5,000

Chapter – 12: Income from Other Sources

10. What is the rate of income tax regarding income from Lottery, winning prizes etc. –
- 5%
 - 10%
 - 15%
 - 20%

Identify the following statements as True (T) or False (F):

- Dividend income will include bonus share issued by a company.
- Incomes which do not fall in any other categories are grouped under "Income from Other Sources".
- Interest paid in respect of money borrowed for the purpose of acquisition of shares of a company will be deducted from Income from Other sources
- 10% tax is deducted from income from Lottery, winning prizes etc.
- From interest on Bank Deposit, 20% tax will be deducted at source.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 12 – 1: What do you mean by the term "Income from Other Sources"?
- Question 12 – 2: Which incomes are considered under the head "Income from Other Sources"?
- Question 12 – 3: What incomes are included under the term "dividend"?
- Question 12 – 4: Explain the exemptions regarding interest income.
- Question 12 – 5: Explain the provisions regarding chargeability of tax on royalty income.
- Question 12 – 6: Explain the provisions regarding "Unexplained Investments deemed to be Income as per Section 19".
- Question 12 – 7: What are the allowable deductions from "Income from Other Sources"?
- Question 12 – 8: Write short note on:
- Income from Other sources
 - Grossing Up
 - Unexplained investment
 - Inadmissible deductions

Problem 12 – 1:

Mr. Zahir has earned the given incomes for the year 2016-17. Compute taxable income of Mr. Zahir considering: Dividend from a Public Limited Company Tk. 18,000; Interest on Fixed Deposits Tk. 2,700; Interest on Post Office Savings Bank Tk. 2,700; Remuneration for exam script evaluation and invigilation Tk. 1,000; Prize of winning crossword prize Tk. 16,000; Sale of forest timber and honey Tk. 1,000; Income from letting out household furniture Tk. 1,500; Income from participating in a singing competition Tk. 3,000; Remuneration as Director Tk. 10,000; Gift from father Tk. 5,000 and Income from part time job Tk. 9,000. During the year he has purchased jewellery of Tk. 25,000 the source of which has not been explained to the DCT. During the year he has paid Tk. 200 as commission for collecting dividend and Tk. 800 as interest on loan taken to purchase the shares of private ltd co.

Problem 12 – 2:

Compute taxable income of Mr. Sohel for the year 2016-17 considering: Dividend from Grameen Mutual Fund Tk. 27,000; Profit on Islami Bank Mudaraba Savings Scheme Tk. 1,800; Income from

royalty of a book Tk. 2,000; Income received from sublet of premises Tk. 10,000; Prize of winning lottery Tk. 1,600; Income from vacant land adjacent to his house Tk. 2,000; Income from letting patent Tk. 2,500; Income from rent of a shop owned by him Tk. 4,000; Gain from loan amortization Tk. 10,000; Income from a newspaper for column writing Tk. 5,000 and Income from unused leased land Tk. 2,000. During the year he spent Tk. 100,000 on a party in Hotel Sheraton, the source of expenditure remained unexplained to the DCT. He has also purchased a land of Tk. 500,000 for which the source of the money was unexplained. During the year he has paid Tk. 200 as commission for collecting the dividend and Tk. 800 as interest on loan taken to purchase the shares.

Problem 12 – 3:

Mr. Tauhid has earned the following incomes for the year 2016-17.

Income from salary : Tk. 300,000;

Income from Other Sources :

- (a) Dividend from a private ltd. company Tk. 4,500;
- (b) Dividend of public limited company Tk. 9,000;
- (c) Dividend from ICB Mutual Fund Tk. 36,000;
- (d) Interest on savings account Tk. 900;
- (e) Prize of lottery Tk. 32,000;
- (f) Interest on fixed deposit Tk. 3,800;
- (g) Interest on postal savings account Tk. 1,600;
- (h) Income from writing book Tk. 8,000;
- (i) Income from examining scripts and invigilation Tk. 4,200;
- (j) Income from word competition Tk. 4,800;
- (k) Prize of Prizebond Tk. 24,000;
- (l) Income from a private university as a part-time lecturer Tk. 22,000;
- (m) Income from remuneration of director Tk. 14,000;
- (n) Income from rent of a shop owned by him Tk. 15,000;
- (o) Income from a newspaper for column writing Tk. 2,000;
- (p) Income from sale of forest timber Tk. 32,000;
- (q) Income from unused leased land Tk. 17,000;
- (r) Income from rental of household machineries Tk. 9,000;
- (s) Gain from loan amortization Tk. 11,000;
- (t) Income from Boats and mooring Tk. 10,000; and
- (u) Income from royalty and patent Tk. 26,000.

During the year he spent Tk. 1,000,000 to purchase a flat in Mirpur and the source of expenditure remained unexplained to the DCT. Through investigation, the DCT has also identified an FDR of Tk. 300,000 in a local bank which has also not been explained. He has also visited India incurring a total cost of Tk. 100,000 and purchased a Jewellery set of Tk. 50,000 for his wife for which the source of the money was also unexplained. During the year he has paid Tk. 500 as commission for collecting the dividend and Tk. 800 as interest on loan taken to purchase the shares.

His other expenditures during the year were: Purchase of dress and cloths Tk. 10,000; Donation to Ahsania Mission Cancer Hospital Tk. 30,000; Contribution to a deposit pension scheme Tk. 70,000; Purchase of primary shares of a listed company Tk. 10,000 and Contribution to Government Zakat Fund Tk. 50,000.

Compute taxable income and tax liability of Mr. Tauhid for the assessment year 2017 – 2018.

Chapter - 12: Income from Other Sources

Multiple choice questions		True/False
1. c	6. a	1. F
2. a	7. b	2. T
3. d	8. c	3. T
4. b	9. d	4. F
5. d	10. d	5. F

Self review 12 - 1:

Ans: Tk. 30,000; as 10% tax is deducted at source on any amount of interest from savings deposit.

Self review 12 - 2:

Ans: Tk. 7,000 in the income year 2016-17.

Ans: Tk. 4,500 in each of the income year 2015-16 and 2016-17.

Ans: Tk. 3,000 in each of the income year 2014-15, 2015-16 and 2016-17.

CHAPTER – 13

ADDITIONAL HEADS OF INCOME

● LEARNING OBJECTIVES ●

After studying Chapter 13, you shall be able to understand:

- ⊕ the concept of share of profit in a firm
 - ⊕ the concept of foreign income
 - ⊕ terms of foreign income
 - ⊕ the concept of income from spouse or minor child
 - ⊕ double taxation relief
 - ⊕ contents of DTA
 - ⊕ clubbing of income
-

According to Section 20 of the ITO, 1984, for the purpose of charge of income tax and computation of total income, seven heads of income is used, namely: salaries, interest on securities, income from house property, agricultural income, income from business or profession, capital gains and income from other sources. But according to the Rule 24 of the ITR, 1984, it has been seen that in the “Specimen Form of Income under the ITO, 1984 – Part II” total 10 heads have been given. Among those the additional heads are Share of profit in a firm, Income of the spouse or minor child as applicable u/s 43(4) and foreign income.

13.1 SHARE OF PROFIT IN A PARTNERSHIP FIRM

Partnership is an abstract relationship between the partners under certain circumstances. This is governed by the Partnership Act, 1932. As assessment is done for individuals, it is also done for a Partnership Firm. If an assessee is a partner of a firm and receives a certain amount of money as share of profit from the firm, it will be shown separately in the Income tax return under the head “Share of profit in a firm”. As per Section 43(3), Where the assessee is a partner of a firm, then, whether the firm has made a profit or a loss, his share (whether a net profit or a net loss) shall be taken to be any salary, interest, commission or other remuneration payable to him by the firm in respect of the income year increased or decreased respectively by his share in the balance the profit or loss of the firm after the deduction of any interest, salary, commission or other remuneration payable to any partner in respect of the income year and such share shall be included in his total income. The details regarding the computation procedure of Share of profit in a Partnership Firm and other relevant topics have been explained in Chapter 18B of this book under the title “Assessment of Firms”.

SELF REVIEW 13 – 1

What are the additional heads of income under the IT Rules, 1984?

13.2 FOREIGN INCOME WITHIN THE SCOPE OF TOTAL INCOME

According to Section 17(1)(a) of the ITO, 1984, all those incomes which accrue or arise outside Bangladesh is included under the head “Foreign Income”. According to [Section 17(1)(a)(iii)] the total income of any income year of a resident [whether Bangladeshi or foreigner] also includes, all

income from whatever sources derived which accrues or arises to him outside Bangladesh during the year. So, foreign income is taxable for residents. But for a non-resident [whether Bangladeshi or foreigner] this will not be considered as foreign income; and hence will not be included in total income. In addition to it, it should be remembered that foreign income doesn't also include any income from export since it is considered under the head "Income from Business or Profession".

SELF REVIEW 13 – 2

Mention the status of "Foreign Income" in computing total income of an assessee in terms of his residential status.

13.2.1 Terms of Foreign Income:

According to Section 18 of the ITO, 1984, some incomes accrue or arise in Bangladesh may be considered as foreign income and some other income accrue or arise outside Bangladesh may not be considered as foreign income:

1. Any income which falls under the head "Salaries", wherever [even in outside Bangladesh] paid if it is earned in Bangladesh; or it is paid by the Government or a local authority in Bangladesh to a citizen of Bangladesh in the service of such Government or authority; will be considered as income deemed to accrue or arise in Bangladesh. i.e. domestic income [Sec 18(1)]
2. Any income accruing or arising, whether directly or indirectly, through or from any business connection in Bangladesh is normally considered as domestic income; but if all the operations of the business are not carried out in Bangladesh, only such part of the income as is reasonably attributable to the operation carried out in Bangladesh shall be considered as income deemed to accrue or arise in Bangladesh; and the rest of the part will be considered as **foreign income**. [Sec 18(2)]
3. Any dividend paid outside Bangladesh by a Bangladeshi company will not be considered as foreign income. [Sec 18(3)]
4. Any income by way of interest payable, fees for technical services payable and royalty payable even if it is deemed to accrue or arise outside Bangladesh, will be domestic income if –
 - (a) It is paid by the Government; or
 - (b) It is paid by a person who is a resident or non-resident, where the interest, fees and royalties is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person in Bangladesh or for the purpose of making or earning any income from any source in Bangladesh; [Sec 18(4)(5)(6)]
5. But, any income by way of interest payable, fees for technical services payable and royalty payable will be considered as **foreign income**, if the interest, fees and royalties is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person outside Bangladesh or for the purpose of making or earning any income from any source outside Bangladesh; [Sec 18(4)(5)(6)]

13.2.2 Income Tax on Foreign Income:

According to the various provisions of the ITO, 1984 and SROs, following rules will be applicable for charging tax on foreign income:

1. Excluding company, if any individual assessee being a Bangladeshi citizen brings any income deemed to accrue or arise outside Bangladesh through banking channel, such income will be tax exempted and will not be included in total income [Sixth Schedule, Part A, Para 48].
2. But if it is not brought through banking channel, it will be included in total income, and hence will be taxable at normal rate.
3. If a non resident Bangladeshi other than company sends foreign remittance through banking channel, or invests it in a new local industry, shares, debentures or any government bond, no tax will be charged on it.

13.2.3 Double Taxation Relief / Agreement:

Fiscal jurisdiction is often the most aggressively guarded jurisdiction of any nation. As a consequence, even in times when economies are going global and borders fading, leading to liquid movement of goods, services and capital, double taxation is still one of the major obstacles to the development of inter-country economic relations. Nations are often forced to negotiate and accommodate the claims of other nations within their heavily guarded fiscal jurisdiction by the means of double taxation avoidance agreements, in order to bring down the barriers to international trade. The Fiscal Committee of OECD in the Model Double Taxation Convention on Income and Capital, 1977, defines 'the phenomenon of international juridical double taxation' as 'the imposition of comparable taxes in two or more states on the same tax payer in respect of the same subject matter and for identical periods'. Double tax treaties comprise of agreements between two countries, which, by eliminating international double taxation, promote exchange of goods, persons, services and investment of capital. These are bilateral economic agreements where the countries concerned evaluate the sacrifices and advantages which the treaty brings for each contracting state, including tax forgone and compensating economic advantages.

Avoidance of Double Taxation Agreement is an agreement between two countries seeking to avoid double taxation by defining the taxing rights of each contracting state with regard to cross-border flows of income and providing for tax credits or exemptions to eliminate double taxation. It also provides for exchange of information between treaty partners regarding evasion of tax.

13.2.4 Classification of Double Taxation Agreements:

Double taxation avoidance agreements, depending on their scope, can be classified as Comprehensive and Limited. Comprehensive Double Taxation Agreements provide for taxes on income, capital gains and capital, while Limited Double Taxation Agreements refer only to income from shipping and air transport, or estates, inheritance and gifts. Comprehensive agreements ensure that the taxpayers in both the countries would be treated equally and on equitable basis, in respect to problems relating to double taxation.

13.2.5 Objectives of Double Taxation Agreements:

The object of a Double Taxation Avoidance Agreement is to provide for the tax claims of two governments both legitimately interested in taxing a particular source of income either by assigning to one of the two the whole claim or else by prescribing the basis on which tax claims is to be shared between them. The need and purpose of tax treaties has been summarized by the OECD in the 'Model Tax Convention on Income and on Capital' in the following words: *It is desirable to clarify, standardize, and confirm the fiscal situation of taxpayers who are engaged, industrial, financial, or any other activities in other countries through the application by all countries of common solutions to identical cases of double taxation.*

Chapter - 13: Additional Heads of Income

- ❖ The objectives of DTA agreements can be enumerated in the following words:
First, they help in avoiding and alleviating the adverse burden of international double taxation, by –
 - a) laying down rules for division of revenue between two countries;
 - b) exempting certain incomes from tax in either country;
 - c) reducing the applicable rates of tax on certain incomes taxable in either countries.
- ❖ Secondly, and equally importantly tax treaties help a taxpayer of one country to know with greater certainty the potential limits of his tax liabilities in the other country.
- ❖ In third, still another benefit from the tax-payers point of view is that, to a substantial extent, a tax treaty provides against non-discrimination of foreign tax payers or the permanent establishments in the source countries vis-à-vis domestic tax payers.

13.2.6 Methods of Eliminating Double Taxation:

The objective of double taxation can be achieved Tax treaties employ various methods or a combination of-

- (a) **Exemption Method:** One method of avoiding double taxation is for the residence country to altogether exclude foreign income from its tax base. The country of source is then given exclusive right to tax such incomes. This is known as complete exemption method and is sometimes followed in respect of profits attributable to foreign permanent establishments or income from immovable property.
- (b) **Credit Method:** This method reflects the underline concept that the resident remains liable in the country of residence on its global income, however as far the quantum of tax liabilities is concerned credit for tax paid in the source country is given by the residence country against its domestic tax as if the foreign tax were paid to the country of residence itself.
- (c) **Tax Sparing:** One of the aims of the Bangladesh Double Taxation Avoidance Agreements is to stimulate foreign investment flows in Bangladesh from foreign developed countries. One way to achieve this aim is to let the investor to preserve to himself/itself benefits of tax incentives available in Bangladesh for such investments. This is done through "Tax Sparing". Here the tax credit is allowed by the country of its residence, not only in respect of taxes actually paid by it in Bangladesh but also in respect of those taxes Bangladesh forgoes due to its fiscal incentive provisions under the Bangladesh Income Tax Ordinance. Thus, tax sparing credit is an extension of the normal and regular tax credit to taxes that are spared by the source country i.e. forgiven or reduced due to rebates with the intention of providing incentives for investments.

The regular tax credit is a measure for prevention of double taxation, but the tax sparing credit extends the relief granted by the source country to the investor in the residence country by the way of an incentive to stimulate foreign investment flows and does not seek reciprocal arrangements by the developing countries.

13.2.7 Double Taxation Avoidance Agreements – Bangladesh Status:

According to Section 144 of ITO, 1984, the Government may enter into an agreement with the Government of any other country for the avoidance of double taxation and the prevention of fiscal evasion with respect to income tax and under the corresponding law in

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force in that country, and may, by notification in the official Gazette, make such provisions as may be necessary for implementing the agreement. The objectives of Bangladesh DTA are as follows:

- ⊕ to obtain a more effective relief from double taxation compared to relief provided under unilateral measures;
- ⊕ create a favorable climate for the inflow of foreign investment into the country;
- ⊕ to prevent evasion and avoidance of tax
- ⊕ to make special tax incentives provided by Bangladesh fully effective for taxpayers of capital exporting countries; and
- ⊕ to enhance international relationship.

Bangladesh has signed DTA with 33 countries as [UK, Singapore, Sweden, South Korea, Canada, Pakistan, Romania, Srilanka, France, Malaysia, Japan, India, Germany, Netherlands, Italy, Denmark, China, Belgium, Thailand, Poland, Philippines, Vietnam, Turkey, Norway, USA, Indonesia, Switzerland, Oman, Mauritius, Myanmar, UAE, Saudi Arabia & Belarus] till June 30, 2015. Negotiation is going on with some other countries like Egypt, Russia, Nepal, and Bahrain.

Name of the countries with which Agreement on Avoidance of Double Taxation is in force.

Name of the Country	SRO		Date of effect in Bangladesh [assessment year commencing on or after]
	No.	Date	
1. United Kingdom of Great Britain and Northern Ireland	227-L/80	08/07/1980	01/07/1978
2. Singapore	124-L/82	21/04/1982	01/01/1980
3. Sweden	382-L/83	19/10/1983	01/07/1984
4. Republic of Korea	433-L/84	02/10/1984	01/07/1984
5. Canada	247-L/85	06/06/1985	01/07/1982
6. Pakistan	221-L/88	11/07/1988	01/01/1980
7. Romania	348-L/88	23/11/1988	01/07/1989
8. Sri Lanka	365-L/88	10/12/1988	01/07/1989
9. France	2-L/89	04/01/1989	01/07/1989
10. Malaysia	67-L/90	15/02/1990	01/01/1982
11. Japan	235-L/91	06/08/1991	01/07/1992
12. India	45-L/93	27/02/1993	01/07/1993
13. Germany	1-L/94	01/01/1994	01/01/1990
14. The Netherlands	267-L/94	14/09/1994	01/07/1995
15. Italy	63-L/97	12/03/1997	01/07/1980
16. Denmark	72-L/97	17/03/1997	01/07/1997
17. China	114-L/97	13/05/1997	01/07/1998
18. Belgium	11-L/98	14/01/1998	01/07/1998
19. Thailand	222-L/98	07/09/1998	01/07/1999
20. Poland	39-L/99	03/03/1999	01/07/2000
21. Philippines	56-L/2004	04-03-2004	01-07-2004
22. Vietnam	301-L/2004	18-10-2004	01-07-2005
23. Turkey	308-L/2005	31-10-2005	01-07-2005

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24. Norway	20-L/2006	12-02-2006	01-07-2006
25. USA	71-L/2007	10-05-2007	01-07-2007
26. Indonesia	60-L/2007	26-04-2007	01-07-2007
27. Switzerland	52-L/2010	10-12-2007	01-07-2010
28. Oman	16-L/2009	02-02-2009	01-07-2009
29. Mauritius	122-L/2012	09-05-2012	01-07-2012
30. Myanmar	313-L/2012	18-10-2012	01-07-2012
31. Saudi Arabia	103-L/2012	15-04-2012	01-10-2011
32. UAE	313-L/2012	05-09-2012	01-07-2012
33. Belarush	189-L/2014	08-07-2014	01-06-2014

The foreign income of an assessee for which tax has already been paid in that foreign country, is known as "Doubly taxed income". According to Section 144 and 7th schedule of the ITO -1984, the provision for tax reliefs regarding this income are as follows:

Sources of Income	Section	Limit of Double taxation relief
From those countries with whom DTA has signed	144 and Schedule 7	Tax calculated as per the rate in the agreement, but it will not be more than the tax amount calculated on the basis of the average tax rate applicable in Bangladesh (considering foreign income in total income) on the foreign income.
From those countries with whom DTA has not yet been signed	145	Tax calculated on such doubly taxed income at the average rate of tax of Bangladesh or the average rate of tax of the said country, whichever is lower.

13.2.8 Contents of a DTA between Bangladesh and another country:

The Bangladesh model of Avoidance of Double Taxation Agreement consists of 29 Articles that are as follows:

- Article 1 Persons Covered
- Article 2 Taxes Covered
- Article 3 General Definitions
- Article 4 Resident
- Article 5 Permanent Establishment
- Article 6 Income from Immovable Property
- Article 7 Business Profits
- Article 8 Shipping and Air Transport
- Article 9 Associated Enterprises
- Article 10 Dividends
- Article 11 Interest
- Article 12 Royalties
- Article 13 Fees for Technical Services
- Article 14 Independent Personal Services
- Article 15 Dependent Personal Services
- Article 16 Director's Fees
- Article 17 Artists and Sportsmen
- Article 18 Pensions
- Article 19 Government Service
- Article 20 Students and Trainees

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Article 21	Lecturers and Researchers
Article 22	Other Income
Article 23	Elimination of Double Taxation
Article 24	Non Discrimination
Article 25	Mutual Agreement
Article 26	Exchange of Information
Article 27	Diplomatic Agents and Consular Officers
Article 28	Entry into Force
Article 29	Termination

Illustration 13 – 1:

The total income of Mr. Aslam for the income year 2016 – 2017 was as:

Income from Bangladesh Tk. 1,520,000; Income from Sweden Tk. 600,000; Income from Singapore Tk. 300,000; and Income from Russia Tk. 1,000,000. The income tax rate for foreigners in Sweden is 30%, but he has paid tax @ 25% as per DTA. 20% tax has been paid in Russia for the income generated in Russia. The income of Singapore has been brought in Bangladesh through banking channel. Compute the amount of double taxation relief for the assessment year 2017 – 2018.

Solution 13 – 1:

Computation of total income		
	Tk.	Tk.
(a) Income from Bangladesh		1,520,000
(b) Income from Sweden		600,000
(c) Income from Russia		1,000,000
(d) Income from Singapore	300,000	
Less: Tax exempted	300,000	
Total		3,120,000

Computation of Tax payable in Bangladesh			
		Rate	Tk.
Upto first	Tk. 250,000	0%	-
Upto next	400,000	10%	40,000
Upto next	500,000	15%	75,000
Upto next	600,000	20%	120,000
Upto next	1,370,000	25%	3,42,500
Total	3,120,000		5,77,500
Less: Double taxation relief (Note)			2,96,160
Net tax payable			2,81,340

Notes: (1) Average tax rate in Bangladesh = $[(5,77,500/31,20,000) \times 100] = 18.51\%$ (2) Tax relief from income from Russia (No DTA) = @ 20% or average tax rate i.e. 18.51% whichever is lower = $(10,00,000 \times 18.51\%) = \text{Tk. } 1,85,100$ (3) Tax relief from income from Sweden (DTA exists) = $(6,00,000 \times 25\%) = 1,50,000$ and Maximum limit = $(6,00,000 \times 18.51\%) = \text{Tk. } 1,11,060$; whichever is lower. (4) Total double taxation relief = $(1,85,100 + 1,11,060) = \text{Tk. } 2,96,160$

13.3 INCOME OF THE SPOUSE OR MINOR CHILD

In computing the total income of any individual for the purpose of assessment, Income of the spouse or minor child will be included as per Section 43(4) of the ITO, 1984.

13.3.1 Clubbing of income:

An assessee is generally taxed in respect of his own income. However, in some cases the Income Tax Act deviates from this general provision and the assessee may also be assessed in respect of incomes of some other persons as per Section 43(4) and 43(5) of the ITO, 1984. The inclusion of other's income in the total income of an assessee is known as "Clubbing of Income". The provisions have been enacted to counteract a generally prevalent and growing tendency on the part of the tax-payers to dispose of their property or income in such a way that tax-liability may be avoided or reduced. Some of these provisions relate to income of the spouse and minor child.

13.3.2 Scope of the Income of the Spouse or Minor Child [Section 43(4)]:

Section 43(4) of the ITO, 1984, aims at foiling an individual's attempt to avoid or reduce the incidence of tax by transferring assets to the spouse or minor child, or admitting the spouse as a partner or admitting a minor child to the benefits of partnership in a firm in which such individual is a partner [C.I.T vs. Manilal Dhanji (1962) 44 I.T.R 876, 881]. According to this section, in computing the total income of any individual for the purpose of assessment, there shall be included-

- (a) so much of the income of the spouse or minor child of such individual as arises, directly or indirectly, –
 - (i) from the membership of the spouse in a firm where such individual is a partner;
 - (ii) from the admission of the minor child to the benefits of partnership in a firm of which such individual is a partner;
 - (iii) from assets transferred directly or indirectly to the spouse otherwise than by way of gift or for adequate consideration or in connection with an agreement to live apart; or
 - (iv) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual otherwise than by way of gift or for adequate consideration; and
- (b) so much of the income of any person or association of persons as arises from assets transferred, otherwise than [by way of gift or] for adequate consideration, to such person or association of persons by such individual for the benefit of the spouse or minor child or both.

Note: (1) For the purpose of the application of this subsection, it is immaterial whether the partnership was formed before or after the commencement of the Act (C.I.T vs. Lakshmanier [1941] I.T.R 668) and whether the transfer was effected before or after that date. (2) If the individual is not a partner in the firm in which the spouse or minor child has a share, the spouse's or minor child's share of profits in such a firm cannot be included under this section in the individual's total income. (C.I.T vs. Gokladas Hukumchand [1943] I.T.R 462,469) (3) Where both father and mother are the partners, then the income should be clubbed with the income of that parent whose total income excluding the income from the firm is greater. (4) The provision of clubbing the income will not apply when the child attains his majority even during the income year. (5) The clubbing of income from spouse will be applicable only when the spouse doesn't submit his/her individual return.

13.4 SCOPE OF THE INCOME OF THE OTHER PERSONS TO BE INCLUDED IN THE TOTAL INCOME OF THE ASSESSEE [SEC 43(5)]

As per Section 43(5) of the ITO, 1984, All income arising to any person by virtue of a settlement or disposition whether revocable or not from assets remaining the property of the [settlor] or disponent, shall be deemed to be income of the [settlor] or disponent, and all income arising to any

person by virtue of a revocable transfer of assets shall be deemed to be income of the transferor and shall be included in the total income of such person under the head "Income from Other Sources". As per Section 43(6), for the purpose of sub-section 43(5):

- (a) a settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the retransfer directly or indirectly of the income or assets to the [settlor], disponent or transferor, or in any way gives the settlor, disponent or transferor a right to resume power directly over the income or assets;
- (b) the expression "settlement or disposition" shall include any disposition, trust, covenant, agreement or arrangement, and the expression [settlor] or disponent, in relation to a settlement or disposition, shall include any person by whom the settlement or disposition was made.

Illustration 13 – 2:

Determine the income of the spouse or minor child in order to include in the total income of Mr. X:

- a) Mr. X has purchased shares of Tk. 100,000 of Private Limited Companies in the name of his wife from which his wife has received Tk. 34,000 as dividend.
- b) Mr. X has gifted Prize bond of Tk. 20,000 to his 10 years old son. His son has received Tk. 100,000 as reward from winning the lottery.
- c) Mr. X has deposited Tk. 50,000 as fixed deposit in the name of his married daughter from which his daughter has received tk. 5,000 as interest income.
- d) Mr. X has received Tk. 8,500 as interest from the Savings Account of his minor child

Solution 13 – 2:

Mr. X		
Income year: 2016 – 2017; Assessment year: 2017 – 2018		
Income of the spouse or minor child:		Tk.
(a) Dividend income of the spouse $[34,000 \div 85 \times 100]$	40,000	
Less: Exempted	<u>25,000</u>	15,000
(b) Interest on minor's bank account $[(8,500 \times 100) \div 85]$		<u>10,000</u>
Total		<u>25,000</u>

Notes: (1) It has been assumed that his wife has not submitted any return in her own name. (2) Income from any gifted assets to the minor child or spouse will not be included in the total income. (3) Income from assets transferred directly or indirectly to the married daughter will not be included in the total income. (4) Assuming that the wife and the minor do not have TIN, so TDS rate on dividend and interest income is 15%.

Illustration 13 – 3:

Determine the income of the spouse or minor child in the total income of Mr. Asad:

- a) Mr. Asad has purchased shares of Tk. 100,000 of Public Limited Companies in the name of his wife from which his wife has received Tk. 34,000 as dividend. His wife has deposited this dividend in a fixed deposit account in her own name and received Tk. 1,500 as interest income.
- b) Mr. Asad has given his second wife a house to live separately. Income from this house property during the year Tk. 20,000.
- c) Mr. Asad has opened a Savings Scheme of Tk. 200,000 in the name of one of his relatives in order to maintain educational expenses of his son who stays in his relative's house in Khulna. Tk. 1,800 is the amount of gross interest from this savings per month. Mr. Asad will take back the Savings scheme at the end of the graduation of his son.

Chapter – 13: Additional Heads of Income

Solution 13 – 3:

Mr. Asad
Income year: 2016 – 2017
Assessment year: 2017 – 2018

	Tk.	Tk.
Income of the spouse or minor child:		
(a) Dividend income of the spouse $[34,000 \div 85 \times 100]$	40,000	
Less: Exempted	<u>25,000</u>	15,000
Income from Other Sources:		
(a) Int. on savings scheme opened in the name of other person $(1,800 \times 12)$		<u>21,600</u>
		<u>36,600</u>

Notes: (1) It has been assumed that his wife has not submitted any return in her own name. (2) Since the interest income of Tk. 1,500 has been received from the amount which has been invested and given by his wife, such interest will not be included as income of the spouse. But if his wife submits return, both the dividend and interest income will be included in her total income. (3) Interest on savings scheme opened in the name of his relative will be included under the head "income from other sources". (4) Assuming that the spouse does not have TIN, so TDS rate on dividend income is 15%.

KEY POINTS

1. According to Income Tax Rule – 24, with heads specified in Section 20 of the ITO, 1984 other additional heads are Share of profit in a firm, Income of the spouse or minor child as applicable u/s 43(4) and foreign income.
2. Foreign income is taxable for residents but for a nonresident [whether Bangladeshi or foreigner] this will not be included in total income.
3. Foreign income doesn't include any income from export since it is considered under the head "Income from Business or Profession".
4. If any resident assessee (other than a company) brings any income deemed to accrue or arise outside Bangladesh through banking channel, such income will be tax exempted.
5. The Government may enter into an agreement with the Government of any other country for the avoidance of double taxation and the prevention of fiscal evasion with respect to income tax.
6. When the foreign income arises from a country with which Bangladesh has signed DTA, tax will be calculated based on the rate stated in the agreement.
7. The inclusion of other's income in the total income of an assessee is known as "Clubbing of Income" which basically indicates income of spouse or minor child and may also include other person's income.
8. The clubbing of income from spouse will be applicable only when the spouse doesn't submit his / her individual return.
9. If the individual is not a partner in the firm in which the spouse or minor child has a share, the spouse's or minor child's share of profits in such a firm cannot be included under this section in the individual's total income.
10. The provision of clubbing the income will not apply when the child attains his majority even during the income year.

Multiple choice questions:

1. Income of the spouse or minor child is applicable under section ---- of the ITO, 1984 –
 - (a) 43(1)
 - (b) 43(2)
 - (c) 43(3)
 - (d) 43(4)
2. To include other person's income in the total income of an assessee is known as –
 - (a) Addition of income
 - (b) Clubbing of income
 - (c) Grossing up of income
 - (d) Merging of income
3. Which should be included in the income from spouse or minor child –
 - (a) Income from assets gifted to minor child.
 - (b) Income from married daughter's asset
 - (c) Income from spouse's asset who submits separate return
 - (d) Income from minor child's bank account.
4. Foreign income is applicable under Section ----- of ITO, 1984 –
 - (a) 17
 - (b) 19
 - (c) 27
 - (d) 47
5. Double taxation agreement is conducted under Section ----- of ITO, 1984 –
 - (a) 121
 - (b) 17
 - (c) 124
 - (d) 144
6. Tax on foreign income arising from a country where Bangladesh has signed DTA is at –
 - (a) a rate in the agreement
 - (b) an average rate
 - (c) exempted
 - (d) lower of a & b
7. Tax on foreign income from a country where Bangladesh has not signed DTA is at –
 - (a) a rate in the agreement
 - (b) an average rate of the said country
 - (c) an average rate of Bangladesh
 - (d) lower of b & c
8. If foreign income is not brought through banking channel, the rate of tax will be –
 - (a) maximum rate
 - (b) normal rate
 - (c) average rate
 - (d) zero rated
9. Income of a minor child from a partnership firm where the assessee is not a partner, can be –
 - (a) included with assessee's total income
 - (b) avoided to calculate assessee's total income
 - (c) taxed at average rate
 - (d) tax exempted

Chapter – 13: Additional Heads of Income

10. Income from any assets which has been gifted to the minor child or spouse, can be –
- included with assessee's total income
 - avoided to calculate assessee's total income
 - taxed at average rate
 - none of the above

Identify the following statements as True (T) or False (F):

- If foreign income is not brought through banking channel, it will not be included in total income and hence will not be taxable.
- Any dividend paid outside Bangladesh by a Bangladeshi company will be considered as foreign income.
- The clubbing of income from spouse will be applicable only when the spouse doesn't submit his/her individual return.
- A person can be assessed for the income of other person.
- Bangladesh has signed DTA with 33 countries till 30th June, 2015.

T	F
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T	F
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T	F
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T	F
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T	F
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Discussion Questions:

- Question 13 – 1:** What do you mean by income from spouse or minor child? Explain the scope of income from spouse or minor child.
- Question 13 – 2:** What do you mean by clubbing of income? In which cases the Income of the other persons are to be included in the total income of the assessee?
- Question 13 – 3:** What do you mean by foreign income? Explain the rules regarding income tax computation on foreign income.
- Question 13 – 4:** What is DTA? Why it is important for Bangladesh?
- Question 13 – 5:** "According to Income Tax Rule – 24 total 10 heads has been to compute income of an assessee" – explain.
- Question 13 – 6:** "An assessee is generally taxed in respect of his own income. However, in some cases the Income Tax Act deviates from this general provision and the assessee may also be assessed in respect of incomes of some other persons" – do you agree? Explain.
- Question 13 – 7:** Explain the provisions regarding tax relief on doubly taxed income as per ITO, 1984.
- Question 13 – 8:** Write short note on:
- Foreign income
 - Clubbing of income
 - DTA
 - Income from spouse or minor child

Problem 13 – 1:

Determine the income of the spouse or minor child in order to include in the total income of Mr. X:

- Mr. X has purchased shares of Tk. 100,000 of Private Limited Companies in the name of his wife from which his wife has received Tk. 25,000 as dividend
- Mr. X has gifted Prizebond of Tk. 30,000 to his 10 years old son. His son has received Tk. 50,000 as reward from winning the lottery.
- Mr. X has deposited Tk. 60,000 as fixed deposit in the name of his married daughter from which his daughter has received tk. 6,000 as interest income.

- (d) Mr. X has received Tk. 9,000 as interest from the Savings Account of his minor child
- (e) Mr. X has purchased shares of Tk. 100,000 of Public Limited Companies in the name of his wife from which his wife has received Tk. 25,000 as dividend. His wife has deposited this dividend in a fixed deposit account in her own name and received Tk. 1,500 as interest income.
- (f) Mr. X has given his second wife a house to live separately. Income from this house property during the year Tk. 20,000.
- (g) Mr. X has opened a Savings Scheme of Tk. 200,000 in the name of one of his relatives in order to maintain educational expenses of his son who stays in his relative's house in Khulna. Tk. 1,800 is received as interest from this savings. Mr. X will take back the Savings scheme at the end of the graduation of his son.

Problem 13 – 2:

The total income of Mr Aslam for the income year 2016-17 was as follows:

- (a) Income from Bangladesh Tk. 1,500,000
- (b) Income from Saudi Arabia Tk. 600,000
- (c) Income from South Africa Tk. 300,000
- (d) Income from Russia Tk. 1,000,000

The income tax rate for foreigners in Saudi Arabia is 30%, but he has paid tax @ 25% as per DTA. 20% tax has been paid in Russia for the income generated in Russia. The income of South Africa has been brought in Bangladesh through banking channel. Compute the amount of double taxation relief in the assessment year 2016-17.

Answers:

Multiple choice questions		True	False
1.	a	T	F
2.	b	T	F
3.	a	T	T
4.	a	T	T
5.	a	T	T

Self review 13 – 1:

There are three additional heads of income as per the IT Rules, 1984. They are Share of profit in a firm, Income of the spouse or minor child as applicable u/s 43(4) and foreign income.

Self review 13 – 2:

Foreign income is taxable for residents and will be included in total income. But for a nonresident foreign income will not be included in total income.

CHAPTER – 14

TAX DEDUCTED AT SOURCE

LEARNING OBJECTIVES

After studying Chapter 14, you shall be able to understand:

- ⊕ the concept of TDS and its benefits
- ⊕ income subject to TDS
- ⊕ application of TDS for salary, security, contract and other business or profession, house property etc.
- ⊕ consequence of failure to deduct tax at source
- ⊕ double check method
- ⊕ final settlement of tax liability

In some specific areas, the paying authority is required to deduct tax at source before the income reaches to the hand of assessee. In such a case, the assessee receives after tax income (disposable income) in one sense though it is not the final settlement and the tax deducting or paying authority is working as an agent of the government. TDS is sometimes termed as “withholding tax” as it remains withholding in the hand of the tax deducting authority until the amount so collected is not deposited to the government exchequer. But it is advance payment of tax from the assessee’s point of view who will deduct this amount from his total tax liability at year-end. TDS is advantageous for both the government and the assessee. The mechanism can be figured out as:

14.1 ADVANTAGES

14.1.1 To the Government

- ⊕ Government can ensure the certainty of its income.
- ⊕ Administrative functional complexity has been shifted to the tax deducting authority.
- ⊕ Flow of income throughout the year.

14.1.2 To the Assessee

- ⊕ Reduce the burden of paying a huge amount of money as tax at year-end.
- ⊕ Assessee is not required to save to pay tax. So the western concept of PAYE (Pay As You Earn) is fully applied here which is thought to be the justification of this TDS. Because, it is the culture of the people of developed countries to spend the total earnings of a week at weekend. So, at the end of the year, they will have nothing left for the government. So, assessee prefers the government to receive taxes before earnings come to their hand.

14.2 TDS IN IT ORDINANCE AND IT RULES

Sections 48 to 63 of chapter VII of ITO, 1984 and Rules 11 to 18 of IT Rules, 1984 deal with TDS.

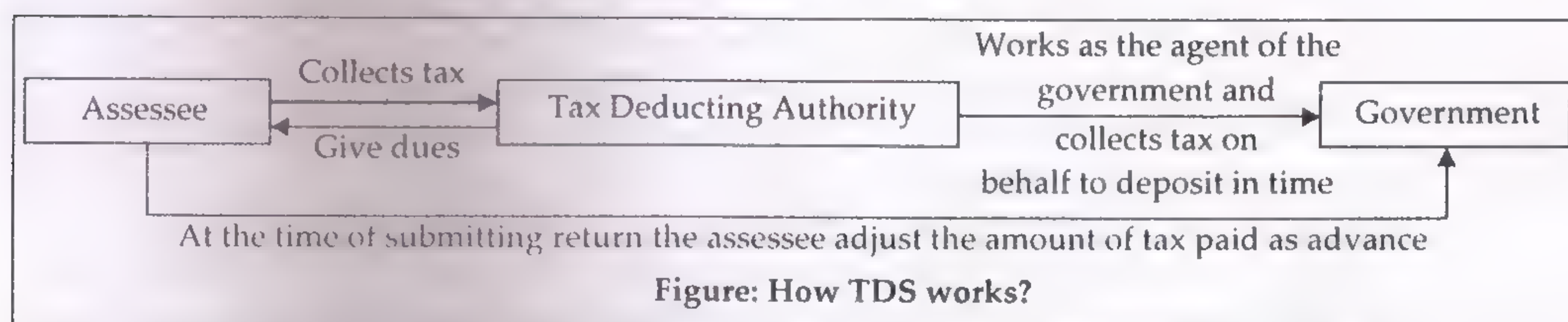
14.3 INCOME SUBJECT TO DEDUCTION AT SOURCE (U/S 49)

Under ITO, tax shall be deducted or collected at source in respect of the following income, namely:

1. Income classifiable under the head “Salaries”;
2. Income from discount on the real value of Bangladesh Bank bills;

3. Income classifiable under the head "Interest on securities";
4. Income derived on account of supply of goods, execution of contracts or services rendered;
5. Income derived by the importers on account of import goods;
6. Income derived on account of indenting commission;
7. Income derived on account of winnings from lottery or crossword puzzles, as referred to in section 19 (13);
8. Any income chargeable under this Ordinance which is paid or payable to a non-resident;
9. Income classifiable under the head "Income from house property";
10. Income derived on account of export of manpower;
11. Income derived on account of purchase by public auction;
12. Income derived on account of acting in films;
13. Income derived on account of travel agency commission or incentive bonus;
14. Income derived on account of shipping agency commission;
15. Income derived from commission, discount or fees payable to distributors for distribution or marketing of manufactured goods;
16. Income derived on account of interest on saving deposits, fixed deposits or term deposits and share of profits on term deposits;
17. Income derived on account of payment from workers' participation fund;
18. Income derived on account of insurance commission;
19. Income classifiable under the head "Capital gains";
20. Income derived on account of fees for professional or technical services;
21. Income derived on account of manufacture of cigarettes manually without any mechanical aid whatsoever;
22. Income derived from compensation against acquisition of property;
23. Income derived on account of running of savings instruments;
24. Income derived on account of running of brick field;
25. Income derived on account of running of services rendered by the doctors;
26. Income derived on account of running of commission of letter of credit;
27. Income derived on account of survey by a surveyor of general insurance company;
28. Income derived on account of commission, remuneration or charges as a foreign buyer's agent;
29. Income from dividends;
30. Income derived on account of rendering certain services;
31. Income derived on account of shipping business carried on both inside and outside Bangladesh by a resident assessee;
32. Income derived on account of business of real estate and land developer;
33. Income derived by an exporter on account of export of any commodity;
34. Income derived by a member of a Stock Exchange on account of transaction of shares, debentures, mutual funds, bonds or securities;
35. Income derived on courier business of a non resident;
36. Income derived on account of export cash subsidy;
37. Income derived on account of renewal of trade license;
38. Income derived on account of freight forward agency commission;
39. Income derived on account of rental power;
40. income derived on account of interest of Post Office Savings Bank Account;
41. Income derived from transfer of securities or mutual fund units by sponsor shareholders of a company etc.;

42. income derived on account of rental value of vacant land or plant or machinery;
43. Income derived on account of advertisement;
44. Income derived by foreign technician serving in a diamond cutting industry;
45. Income derived from services from convention hall, conference centre, room or, as the case may be, hall etc.;
46. From residents for any income by any service provided to any foreign person;
47. Income derived on account of international gateway service in respect of phone call;
48. Collection of tax from manufacturer of soft drink;
49. Income derived from insurance policy;
50. Deduction of tax from local letter of credit (L/C);
51. Income derived from any fees, revenue sharing, etc. from cellular mobile phone operator;
52. Income from transfer of share of any stock exchange;
53. Income from transfer of share of company listed in any stock exchange;
54. Income derived from lease of property.
55. Any sum paid by real estate developer to land owner.



SELF REVIEW 14 – 1

Explain – (a) What is TDS? (b) Who will deduct tax from whom? (c) Advantages of TDS.

14.4 INCOME QUALIFYING FOR TDS, DEDUCTING AUTHORITY, TDS RATES

14.4.1 Salaries (U/s – 50)

Tax is deducted at source from salaries by the paying authorities (employer) at the time of making payment of salaries at an average of the rates applicable to the estimated total income for that assessment year. The average rate in this case will be the expected one, not actual [Section 50(1)].

Notwithstanding the provision of sub section (1), where any Government official is acting as Drawing and Disbursing Officer (DDO) or making or signing a bill for himself or for any other official subordinate to him to draw salary from the Government or any authority, as the case may be, he shall, at the time of making or signing such bill, deduct tax at a rate representing the average of the rates applicable to the estimated total income of such officials if such annual salary chargeable to tax exceeds the taxable limit for that income year [Section 50(1A)]. For the purposes of sub-section (1A), respective Government Accounts Office shall issue a tax deduction certificate in prescribed form within the thirty first day of July following the financial year [Section 50(1B)].

Points to remember:

- a) If the employer fails to deduct tax from the salary at the time of making the payment, he cannot charge it as allowable deduction. U/s – 30(a)

- b) If the annual salary income of the specific employee falls below the exemption limit (say, Tk. 250,000), no need for TDS. No exemption is allowed for non-resident.
- c) In this case, the TDS rate is said to be an average rate. The computation of average rate is very simple.

First, for the specific employee or classes of employees, we have to compute the expected annual taxable income under the head “Salaries” assuming that there is no income from other heads.

Second, we have to apply the regular rates on the taxable income as calculated earlier and compute the total tax liability.

Third, average rate will be calculated by dividing the total tax liability with total taxable salary income. Tax will be deducted at source from the salary income of the said employee or classes of employees at the calculated average rate at the end of every month when salary becomes due and paid.

Example: Let us assume that the annual taxable salary income (after allowing for all exemptions as available in case of various components of salary income) of Mr. X results taka 1,220,000. Total tax liability of Mr. X at regular rate will be:

On first	Tk. 250,000	@ 0%	Tk. Nil
On next	400,000	@ 10%	40,000
On next	500,000	@ 15%	75,000
On next	<u>70,000</u>	@ 20%	<u>14,000</u>
Total	1,220,000		129,000

Note: So, average rate will be 10.57% in case of Mr. X (Tk. 129,000 ÷ Tk. 1,220,000) Average rate can be lower if the employee has any qualifying investment for tax rebate.

- d) But the paying authorities may deduct No TDS or TDS at a lesser rate in accordance with a certificate, issued by the DCT after being satisfied on payee’s application, where the certificate specifies that-
- No TDS will be charged in a case where the tax payable on the total income of the payee has already been deducted or collected from such payee under ITO, 1984 for the rest of the income year.
 - TDS will be charged at a lower rate for the rest of the income year in a case where the payee may, after adjusting the tax already deducted or collected from such payee under ITO, 1984, be liable to pay a lesser sum of tax than the tax chargeable on his total income.

14.4.2 Discount of the real value of Bangladesh Bank bill (U/s – 50A)

Any person responsible for paying any amount on account of discount on the real value of Bangladesh Bank bills shall, at the time of making such payment, deduct tax at the maximum rate on the amount so payable or the rate applicable to such amount, whichever is greater. If no such applicable rate is available, then the rate will be:

	Rate (max. rates)
1. Individual	30%
2. Companies	
(i) Publicly Traded – others	25%
(ii) Companies not publicly traded	35%
(iii) Bank, Insurance, Financial Institutions	40% or 42.5%

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(iv) Merchant Banks	37.50%
(v) Mobile phone companies (For publicly traded 40%)	45%
(vi) Cigarette mfg. companies	45%

Note: No tax shall be deducted under this section where the said bill is purchased by an approved superannuation fund or pension fund or gratuity fund or a recognized provident fund, or a workers' profit participation fund.

14.4.3 Remuneration to Members of Parliaments (U/s – 50B)

Any person responsible for paying remuneration to a Member of Parliament shall deduct tax, at the time of making such payment, at **average rate** applicable to the estimated total remuneration of the payee for that income year.

14.4.4 Interest on Securities (U/s – 51)

- 1) Any person responsible for issuing a security of the government or a security approved by the Government, income of which is classifiable under the head "Interest on securities", shall collect, unless the Government otherwise directs, income tax at the rate of five percent (5%) upfront on interest or discount receivable on maturity on such security [Sec 51(1)].
- 2) If the security mentioned in sub-section (1) is a security based on Islamic principles, income tax shall be deducted or collected at the rate of **five percent (5%)** on profit or discount at the time of payment or credit, whichever is earlier [Sec 51(2)].
- 3) Income tax shall not be collected or deducted at source if the security mentioned in sub-section (1) is a Treasury bond/Treasury bill issued by the Government [Sec 51(3)].

Note: There is no exemption limit for TDS except the tax-exempt government securities and zero coupon bond.

14.4.5 Payment to Contractors, etc. (U/s – 52 & Rule – 16)

According to Section 52, where any payment is to be made by a specified person to a resident on account of –

- a) execution of a contract, other than a contract for providing or rendering a service, mentioned in any other section of Chapter VII;
- b) supply of goods;
- c) manufacture, process or conversion;
- d) printing, packaging or binding;

the person responsible for making the payment shall, at the time of making such payment, deduct tax at such rate, not exceeding **ten percent (10%)** of the base amount, as may be prescribed. *Provided that*

- (a) the rate of tax shall be fifty percent (50%) higher if the payee does not have the twelve-digit Taxpayer's Identification Number at the time of making the payment.
- (b) tax shall not be deducted in respect of clause (b) of sub-section (1) in respect of the purchase of direct materials that constitute cost of sales or cost of goods sold of a trading company or a manufacturing company, as the case may be;
- (c) where any imported goods on which tax has been paid at source under section 53 is supplied, tax at source on the said supply shall be B-A, where-
A= the amount of tax paid under section 53,
B= the amount of tax applicable under this section if no tax were paid under section 53."

Bangladesh Income Tax – Theory and Practice

In this section –

- (a) the specified person means –
- (i) the Government, or any authority, corporation or body of the Government, including its units, the activities of which are authorized by any Act, Ordinance, Order or instrument having the force of law in Bangladesh;
 - (ii) a project, programme or activity where the Government has any financial or operational involvement;
 - (iii) a joint venture or a consortium;
 - (iv) a company as defined in clause (20) of section 2 of this Ordinance;
 - (v) a co-operative bank;
 - (vi) a co-operative society;
 - (vii) a financial institution;
 - (viii) a Non-Government Organisation registered with the NGO Affairs Bureau;
 - (ix) a school, a college, an institute or a university;
 - (x) a hospital, a clinic or a diagnostic centre;
 - (xi) a trust or a fund;
 - (xii) a firm;
 - (xiii) a public-private partnership;
 - (xiv) a foreign contractor, a foreign enterprise or an association or a body established outside Bangladesh; and
 - (xv) any artificial juridical person not mentioned above;
- (b) “contract” includes a sub-contract, any subsequent contract, an agreement or an arrangement, whether written or oral;
- (c) “base amount” is the higher of the contract value or bill/invoice amount or payment;
- (d) “payment” includes a transfer, a credit or an adjustment of payment.

According to Rule 16, the following rates are applicable for payment to contractors, etc.:

- (a) subject to clause (b), in case of a payment made under sub-section (1) of section 52, the deduction on payment shall be at the rate specified in the Table-1 below:

Where base amount:	Deduction rate of tax
does not exceed taka 15 lakh	2%
exceeds taka 15 lakh but does not exceed taka 25 lakh	3%
exceeds taka 25 lakh but does not exceed taka 1 crore	4%
exceeds taka 1 crore but does not exceed taka 5 crore	5%
exceeds taka 5 crore but does not exceed taka 10 crore	6%
exceeds taka 10 crore	7%

- (b) The rate of deduction from the following classes of persons shall be -

In case of:	Rate
oil supplied by oil marketing companies –	
(a) Where the payment does not exceed taka 2 lakh	Nil
(b) Where the payment exceeds taka 2 lakh	0.60%
oil supplied by dealer or agent (excluding petrol pump station) of oil marketing companies, any amount	1%
supply of oil by any company engaged in oil refinery, on any amount	3%
company engaged in gas transmission, on any amount	3%
company engaged in gas distribution, any amount	3%

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Provided that-

- (a) the rate of tax shall be fifty percent (50%) higher if the payee does not have a twelve-digit Taxpayer's Identification Number at the time of making the payment;
- (b) where the payee or the income of the payee, which is subject to tax at source under section 52, is exempted from tax or is subject to a reduced tax rate in an income year, the Board may on an application made by the payee in this behalf gives a certificate in writing that the payment referred to section 52 for that income year shall be made without any deduction or with deduction at a proportionately reduced rate, as the case may be.

Example: Assume that payments are made to a contractor as: 1st installment on July 1, 2016 Tk. 100,000; 2nd installment on October 1, 2016 Tk. 300,000; 3rd installment on January 1, 2017 Tk. 400,000; 4th installment on April 1, 2017 Tk. 1,000,000 and 5th installment on July 1, 2017 Tk. 300,000. Deductions from each installment will be made as:

Installment	Payments	Cumulative Payments	Applicable Rates	Total Deduction	Current Deductions
(1)	(2)	(3)	(4)	(5) = 3 × 4	(6) = For 3rd install. (16,000 – 6,000)
First	1,00,000	1,00,000	2%	2,000	2,000
Second	3,00,000	4,00,000	2%	8,000	6,000
Third	4,00,000	8,00,000	2%	16,000	10,000
Fourth	1,000,000	1,800,000	3%	54,000	36,000
Total deduction for the year 2016-17 exactly equivalent to 1,800,000 × 3%					54,000
Fifth	3,00,000	3,00,000	1%	3,000	3,000

Example: Mr. Kabir, a listed regular supplier of AB Bank Limited, has 12 digits TIN. He supplies different stationary items against different work orders. He supplied stationary items worth Tk. 18,00,000 on 20th July and Tk. 20,00,000 on 1st October 2017. The amount of applicable TDS and amount paid to Mr. Kabir is as follows:

For the first installment: Base amount: Tk. 18,00,000
 Applicable TDS (Tk. 18,00,000 @ 3%) = Tk. 54,000
 Amount paid after deduction of TDS = Tk. 18,00,000 – Tk. 54,000 = Tk. 17,46,000

For the second installment: Base amount: Tk. 18,00,000 + Tk. 20,00,000 = Tk. 38,00,000
 Applicable TDS (Tk. 38,00,000 @ 4%) = Tk. 152,000 with earlier TDS = Tk. 54,000
 TDS to be deducted from this bill = Tk. 152,000 – Tk. 54,000 = Tk. 98,000
 Amount paid after deduction of TDS = Tk. 20,00,000 – Tk. 98,000 = Tk. 19,02,000

14.4.6 Deduction from payment of royalties etc. (U/s – 52A)

Where any payment is to be made by a specified person to a resident on account of royalties, franchise, or the fee for using license, brand name, patent, invention, formula, process, method, design, pattern, knowhow, copyright, trademark, trade name, literary or musical or artistic composition, survey, study, forecast, estimate, customer list or any other intangibles, the person responsible for making the payment shall, at the time of making payment, deduct income tax at the rate specified below –

Description of payment	Rate of deduction of tax
Where base amount does not exceed taka 25 lakh	10%
Where base amount exceeds taka 25 lakh	12%

Provided that the rate of tax shall be fifty percent (50%) higher if the payee does not have a twelve-digit Taxpayer's Identification Number at the time of making the payment.

Bangladesh Income Tax – Theory and Practice

In this section –

- (a) the specified person means –
- (i) the Government, or any authority, corporation or body of the Government, including its units, the activities of which are authorized by any Act, Ordinance, Order or instrument having the force of law in Bangladesh;
 - (ii) a project, programme or activity where the Government has any financial or operational involvement;
 - (iii) a joint venture or a consortium;
 - (iv) a company as defined in clause (20) of section 2 of this Ordinance;
 - (v) a co-operative bank;
 - (vi) a co-operative society;
 - (vii) a financial institution;
 - (viii) a Non-Government Organisation registered with the NGO Affairs Bureau;
 - (ix) a school, a college, an institute or a university;
 - (x) a hospital, a clinic or a diagnostic centre;
 - (xi) a trust or a fund;
 - (xii) a firm;
 - (xiii) a public-private partnership;
 - (xiv) a foreign contractor, a foreign enterprise or an association or a body established outside Bangladesh; and
 - (xv) any artificial juridical person not mentioned above;
- (b) “contract” includes a sub-contract, any subsequent contract, an agreement or an arrangement, whether written or not;
- (c) “base amount” means the higher of the - (i) contract value; or (ii) bill or invoice amount; or (iii) payment;
- (d) “payment” includes a transfer, a credit or an adjustment of payment.

Example: X Company has signed an agreement with Mr. Kabir to use a design invented by him at an agreed value of Tk. 30 lakh and decided to pay him Tk. 10 lakh instantly as first installment. The amount of applicable TDS and amount paid to Mr. Kabir follows:

For the first installment: Base amount: Tk. 30,00,000
 Applicable TDS as per base amount = 12% and Amount of 1st installment = Tk. 10,00,000
 Applicable TDS (Tk. 10,00,000 @ 12%) = Tk. 1,20,000
 Amount paid after deduction of TDS = Tk. 10,00,000 – Tk. 1,20,000 = Tk. 8,80,000

14.4.7 Deduction from payment for Certain Services (U/s – 52AA)

Where any payment is to be made by a specified person to a resident on account of a service as mentioned in this section, the person responsible for making the payment shall, at the time of making such payment, deduct income tax at the rate specified below:

Description of service and payment	Rate where base amount	
	does not exceed taka 25 lakh	exceeds taka 25 lakh
Advisory or consultancy service	10%	12%
Professional service, technical services fee, or technical assistance fee	10%	12%
Catering service, Cleaning service, Collection and recovery service, Private security service, Supply of		

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manpower, Creative media service, Public relations service, Event management service, Training, workshop, etc. organization and management service, any other service of similar nature-		
(a) On commission	10%	12%
(b) On gross bill amount	1.5%	2%
Media Buying agency service		
(a) On commission	10%	12%
(b) On gross bill amount	0.5%	0.65%
Indenting commission	6%	8%
Meeting fees, training fees or honorarium	10%	12%
Mobile network operator, technical support service provider or service delivery agents engaged in mobile banking operations	10%	12%
Credit rating agency	10%	12%
Motor garage or workshop	6%	8%
Private container port or dockyard service	6%	8%
Shipping agency commission	6%	8%
Stevedoring / berth operation commission	10%	12%
Transport service, car rental	3%	4%
Any other service which is not mentioned in Chapter VII of this Ordinance and is not a service provided by any bank, insurance or financial institutions	10%	12%

Provided that if the amount for services mentioned in SL No. 3 and 4 of the Table shows both commission or fee and gross bill amount tax shall be the higher amount between (i) and (ii) where-

- (i) tax calculated on commission or fee applying the relevant rate in the table; and
- (ii) $B \times C \times D$, where,
 - B = Gross bill amount
 - C = 10% for Sl. 3 and 3.5% for Sl. 4, and
 - D = rate of tax applicable on commission or fee:

Provided further that the rate of tax shall be fifty percent (50%) higher if the payee does not have a twelve-digit Taxpayer's Identification Number at the time of making the payment:

Provided further that where the Board, on an application made in this behalf, gives a certificate in writing that the person rendering such service is otherwise exempted from tax under any provision of this Ordinance, the payment referred to in this section shall be made without any deduction or with deduction at a lesser rate, as the case may be, for that income year."

In this section –

- (a) the specified person means –
 - (i) the Government, or any authority, corporation or body of the Government, including its units, the activities of which are authorized by any Act, Ordinance, Order or instrument having the force of law in Bangladesh;

- (ii) a project, programme or activity where the Government has any financial or operational involvement;
- (iii) a joint venture or a consortium;
- (iv) a company as defined in clause (20) of section 2 of this Ordinance;
- (v) a co-operative bank;
- (vi) a co-operative society;
- (vii) a financial institution;
- (viii) a Non-Government Organisation registered with the NGO Affairs Bureau;
- (ix) a school, a college, an institute or a university;
- (x) a hospital, a clinic or a diagnostic centre;
- (xi) a trust or a fund;
- (xii) a firm;
- (xiii) a public-private partnership;
- (xiv) a foreign contractor, a foreign enterprise or an association or a body established outside Bangladesh; and
- (xv) any artificial juridical person not mentioned above;
- (b) "contract" includes a sub contract, any subsequent contract, an agreement or an arrangement, whether written or not;
- (c) "base amount" is the higher of contract value; or bill/invoice amount; or payment;
- (d) "payment" includes a transfer, a credit or an adjustment of payment;
- (e) "professional services" means
 - (i) Services rendered by a doctor;
 - (ii) Services rendered by a person carrying on any profession or any other services applying professional knowledge.

Example: X Company has signed an agreement with Square Hospital Ltd. To provide them with cleaning services. The company has submitted the following bill for the cleaning service:

For cleaning service expense	Tk. 800,000
Commission @ 10%	- Tk. 80,000
Total Bill	Tk. 880,000

The amount of applicable TDS and amount paid to X Company is as follows:

Base amount: Less than Tk. 25,00,000

Applicable TDS on gross amount as per base amount = Tk. 800,000 @ 1.5% = Tk. 12,000

Applicable TDS on commission = Tk. 80,000 @ 10% = Tk. 8,000

Total Applicable TDS = Tk. 12,000 + Tk. 8,000 = Tk. 20,000

Amount paid after deduction of TDS = Tk. 880,000 - Tk. 20,000 = Tk. 860,000

14.4.8 Commission of Clearing & Forwarding (C&F) Agents (U/s - 52AAA)

The Commissioner of Customs shall make collection on account of commission receivable by clearing and forwarding agents at the rate of 10% on such commission at the time of clearance of goods imported or exported.

14.4.9 Cigarette Manufacturers (U/s - 52B)

Any person responsible for selling banderols to any manufacturer of cigarettes shall, at the time of selling banderols, collect tax from such manufacturers on account of the manufacture of cigarette at the rate of 10% of the value of the banderols. Here, "manufacture of cigarettes" means manufacture of cigarettes manually without any mechanical aid whatsoever.

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14.4.10 Compensation against Acquisition of Property (U/s – 52C)

Any person, responsible for paying any amount of compensation against acquisition by the Government of any immovable property shall, at the time of paying such compensation deduct advance tax at the rate of-

- (a) 2% of the amount of such compensation where the immovable property is situated in any city corporation, paurasava or cantonment board;
- (b) 1% of the amount of such compensation where the immovable property is situated outside any city corporation, paurasava or cantonment board.

14.4.11 Deduction at source from Interest on Savings Instruments (U/s – 52D)

Notwithstanding anything contained in any other provision of this Ordinance or any other law being in force in respect of exemption from tax on interest of savings instrument purchased by an approved superannuation fund or pension fund or gratuity fund or a recognized provident fund or a workers' profit participation fund, any person responsible for making any payment by way of interest on any savings instruments shall, at the time of such payment, deduct income tax at the rate of five percent (5%) on such interest:

Notes:

- (a) *Provided that no tax shall be deducted under this section where the cumulative investment at the end of the income year in the pensioners' savings certificate does not exceed Tk. 500,000. But if the cumulative investment exceeds Tk. 500,000, 5% TDS will be applicable on the interest amount of the whole investment.*
- (b) *Provided further that no tax shall be deducted from interest or profit arising from Wage earners development bond, US dollar premium bond, US dollar investment bond, Euro premium bond, Euro investment bond, Pound sterling investment bond or Pound sterling premium bond.*

Example 1: Mr. Jalil is a Non Resident Bangladeshi (NRB) living in Canada. He has purchased Wage Earners Development Bond (WEDB) of Tk. 50 lac on July 01, 2016. He earned interest of Tk. 6 lac from the said WEDB during the income year 2016-17. Moreover he has also earned net Tk. 4 lac from house property. Under such circumstances, no TDS will be applicable on interest income from WEDB in the assessment year 2017-18. In the assessment year 2017-18, Mr. Jalil will pay tax on only house property income Tk. 4 lac @ regular rate.

Example 2: Mr. Khalil is a retired government officer. He has retired on April 2016 and purchased Pensioner Savings Certificate of Tk. 30 lac on July 01, 2016. He earned interest of Tk. 3,95,700 from the said Savings Certificate during the income year 2016-17. Moreover he has also earned Tk. 12 lac from consultancy. Under such circumstances, 5% TDS i.e. Tk. 19,785 will be applicable on interest income from Savings Certificate in the assessment year 2016-17.

Example 3: Mr. Sumon is a Non Resident Bangladeshi (NRB) living in Canada. He has purchased 5-year Wage Earners Development Bond (WEDB) of Tk. 3 lac on July 01, 2015 and again purchased 5-year Wage Earners Development Bond (WEDB) of Tk. 10 lac on July 01, 2016. Under such cases, no TDS will be applicable on interest from the WEDB during the income year 2016-17.

Example 4: Mr. Babu is a government officer. He has retired on April 2016 and purchased 5-year Pensioner Savings Certificate of Tk. 4 lac on July 01, 2016 and again purchased 5-year Pensioner Savings Certificate of Tk. 15 lac on July 01, 2017. Under such cases, no TDS will be applicable on interest from the Savings Certificate during the income year 2016-17 But during the income year 2017-18, since the accumulated investment in Pensioner Savings Certificate has reached to Tk. 19 lac (i.e. exceeds Tk. 5 lac limit), 5% TDS will be applicable on whole interest income from the Pensioner Savings Certificate of Tk. 19 lac in the assessment year 2018-19.

14.4.12 Deduction at source from payment to beneficiary of workers' participation fund (U/s – 52DD)

Notwithstanding anything contained in any other provision of this Ordinance or any other law being in force in respect of exemption from tax on payments from workers' participation fund, any person responsible for making any payment from such fund to a beneficiary shall, at the time of such payment, deduct income tax at the rate of **five percent (5%)** on such payment.

14.4.13 Brick Manufacturers (U/s – 52F)

Tax is collected from brickfield at the time of giving permission for the manufacturing of bricks by the permission giving authorities at: Taka 45,000 for one section brickfield; Taka 70,000 for one and half section brickfield; Taka 90,000 for two-section brickfield; and Taka 120,000 for brick field producing bricks through automatic machine. As per clarification of NBR, one section brickfield means, length 20 feet, width 54 feet and height 8 feet and so on.

14.4.14 Commission of Letter of Credit (U/s – 52I)

Any person (basically bank) responsible for opening letter of credit for the purpose of import of goods for himself or for any other person shall, at the time of collecting commission with respect to letter of credit, deduct income tax at the rate of 5% on the amount of such commission. Banks are required to deposit all taxes deducted by the 15th of the following month to Bangladesh Bank through challan under appropriate head of accounts and such amount is considered to be the advance payment of tax by the Bank.

14.4.15 Collection of tax from travel agent (U/s – 52JJ)

Notwithstanding anything contained in any other provisions of this Ordinance, any person responsible for making any payment to a resident any sum by way of commission or discount or any other benefits, called by whatever name, convertible into money for selling passenger tickets or air cargo carriage shall deduct or collect advance tax at the rate of **zero point three zero percent (0.30%)** of the total value of the tickets or any charge for carrying cargo by air at the time of payment to such resident [Sec - 52JJ(1)].

Where any incentive bonus, performance bonus or any other benefits, called by whatever name, is to be paid in relation to such sale of tickets or bill for carrying cargo by air in addition to the amount mentioned in sub-section (1), person responsible for making such payment shall deduct an amount equal to $(A/B) \times C$, where –

“A” is the amount of incentive bonus, performance bonus or any other benefits as mentioned in subsection (2)

“B” is the amount of commission or discount or any other benefits as mentioned in sub-section (1), and

“C” is the amount of source tax on commission or discount or any other benefits as mentioned in subsection (1) [Sec - 52JJ(2)].

For the purpose of computation of value of tickets or charge, any payment made in respect of any embarkation fees, travel tax, flight safety insurance, security tax and airport tax shall not be included in such value or charge) [Sec - 52JJ(3)].

Explanation: In this section, “payment” includes a transfer, a credit or an adjustment of payment.

Example: A Travel Agent has sold tickets of Tk. 80,00,000 and received 5% commission and 2% incentive bonus. TDS applicable on such amount is -

TDS on commission (Tk. 80,00,000 @ 0.3%) = Tk. 24,000

TDS on incentive bonus = $\frac{80,00,000 \times 2\%}{80,00,000 \times 5\%} \times \text{Tk. 24,000}$ = Tk. 9,600

14.4.16 Collection of tax by City Corporation or Pourashava at the time of renewal of trade license (U/s – 52K)

City Corporation or Pourashava shall collect tax for each trade license at the time of renewal of such license at the rate of Tk. 500 in Dhaka South/North or Chittagong City Corporation; Tk. 300 in any other city corporation; Tk. 300 in any paurashava at any district headquarter; and Tk. 100 in any other paurashava.

14.4.17 Collection of tax from freight forward agency commission (U/s – 52M)

Any person responsible for making any payment by way of freight forward agency commission shall deduct tax at the rate of 15% on the amount paid at the time of such payment or credit of such payment to the account of the payee.

14.4.18 Collection of tax on account of rental power (U/s – 52N)

Notwithstanding anything contained in ITO, 1984, Bangladesh Power Development Board shall deduct tax at the rate of **six percent (6%)** at the time of payment to any rental power company on account of purchase of rental power from that company.

14.4.19 Collection of tax from foreign technician in a diamond cutting industry (U/s – 52O)

The employer responsible for paying salaries received by or due to any foreign technician employed in diamond cutting industries, who is neither a citizen of Bangladesh nor was resident in Bangladesh in any of the four years immediately preceding the year in which he arrived in Bangladesh, as remuneration for services rendered by him for a period not exceeding three years from the date of his arrival in Bangladesh, during such period shall deduct tax at the rate of 5% of such salaries at the time of making payment or giving credit whichever is earlier. *The provision of this clause shall not be applicable to foreign technicians appointed after June 30, 2010.*

14.4.20 Deduction of tax for services from convention hall, conference centre, etc. (U/s – 52P)

Any person, being a corporation, body or authority established by or under any law including any company or enterprise owned, controlled or managed by it, or a company registered under the Companies Act, 1994, any Non-government Organization registered with N.G.O Affairs Bureau or any university or medical college or dental college or engineering college which makes any payment to any person on account of renting or using space of convention hall, conference centre, room or, as the case may be, hall, hotel, community centre or any restaurant, shall deduct tax at the rate of **five percent (5%)** from the whole amount paid for the services thereof at the time of making such payment or at the time of credit of such payment to the account of the payee ; *Provided that no deduction shall be made by a company when such amount is paid directly to the government.*

14.4.21 Deduction of tax from resident for any income in connection with any service provided to any foreign person (U/s – 52Q)

Any person, responsible for paying or crediting to the account of a resident any sum remitted from abroad by way of service charges or consulting fees or commissions or remunerations or any other fees called by whatever name for any service rendered or any

work done by a resident person in favor of a foreign person, shall deduct tax at the rate of **ten percent** of the amount so paid at the time of making such payment or credit of such payment to the account of the payee.

14.4.22 Deduction of tax from receipts in respect of international phone call (U/s – 52R):

The bank, through which any sum on account of International Gateway (IGW) Services in respect of international phone call is received, shall deduct tax at the rate of **one point five percent (1.5%)** of the total amount representing the said receipt at the time of crediting it to the account of the International Gateway (IGW) Services operator.

The International Gateway (IGW) Services operator, by which any sum related to international phone call is paid or credited to the account of Interconnection Exchange (ICX), Access Network Services (ANS) or any other person under an agreement with the Bangladesh Telecommunication Regulatory Commission (BTRC), shall deduct tax at the rate of **seven point five percent (7.5%)** on the whole amount so paid or credited at the time of such payment or credit under the said agreement.

Where any amount is paid or credited in respect of outgoing international calls, the provider of Interconnection Exchange (ICX) services or Access Network Services (ANS) shall deduct tax at the rate of **seven point five percent (7.5%)** on the whole amount so paid or credited at the time of such payment or credit.

Notwithstanding anything contained in sub-section (1), (2), or (2A) where the Board gives a certificate in writing on an application made by a person that income of the person is exempted from tax or will be liable to tax at a rate of tax less than the rate specified in this section, the person responsible for giving any payment shall, make the payment-

- (a) without deduction of tax; or
- (b) after deducting tax at a rate specified in the certificate.

14.4.23 Manufacturer of soft drink (U/s – 52S)

The Security Printing Corporation (Bangladesh) Limited, or any other person responsible for delivery of banderols or stamps, shall collect, at the time of delivery of such banderols or stamps to any manufacturer of soft drinks, etc. **tax @ 4%** of the value of such soft drinks or mineral or bottled water as determined for the purpose of the VAT.

14.4.24 Deduction of tax from any payment in excess of premium paid on life insurance policy (U/s – 52T)

Any person responsible for paying to a resident, any sum in excess of premium paid for any life insurance policy maintained with any life insurance company, shall deduct, at the time of payment of such excess amount to the policy holder, income tax at the rate of 5% on such sum: *Provided that no deduction of tax shall be made in case of death of such policy holder.*

Example 1: Mr. Nikhil has taken an 18 year 3PP Life Insurance Policy from Metlife on 15.09.1998. The policy value and annual premium is Tk. 100,000 and Tk. 7,500 respectively. Mr. Nikhil has received 25% of policy value Tk. 25,000 after 6 years, 25% of policy value Tk. 25,000 after 12 years and 50% of policy value plus bonus Tk. 125,000 after 18 years. The TDS will be calculated as:

Profit from life insurance policy	= Total receipt against policy – Total premium paid
	= (25,000+25,000+125,000) – (7,500 × 18)
	= 175,000 – 135,000 = Tk. 40,000

So, the TDS will be 5% on Tk. 40,000 i.e. Tk. 2,000.

Example 2: Mr. Zakaria has taken a 16 year Education Insurance Policy for his son from Metlife on 15.09.1999. The policy value is Tk. 100,000 & annual premium is Tk. 7,600. He has received total Tk. 230,000 after 16 years at maturity on September 2016. The TDS will be calculated as:
 Profit from education insurance policy = Total receipt against policy – Total premium paid
 = Tk. 230,000 – (7,600 × 16)
 = 230,000 – 121,600 = Tk. 108,400
 So, the TDS will be 5% on Tk. 108,400 i.e. Tk. 5,420.

Example 3: Mr. Farid has taken an 18 year 3PP Life Insurance Policy from Metlife on January 15, 2010. The policy value and annual premium is Tk. 100,000 and Tk. 9,000 respectively. Mr. Farid has received 25% of policy value Tk. 25,000 after 6 years on January 2015. No TDS will be applicable on this amount as it is not profit rather a refund of a part of the policy value.

14.4.25 Deduction from payment on account of local letter of credit (U/s – 52U)

The bank or financial institution, through which any local L/C or any financing agreement, called by whatever name, is made between two or more persons within the country for purchasing or procuring of any goods and proceeds of such goods are paid, shall deduct tax at the rate of 3%, on the total proceeds exceeding five lakh taka, at the time of paying or crediting such proceeds to the account of the person or persons providing such goods. Provided that no tax shall be deducted under this section from the payment related to local L/C and any other financing agreement in respect of purchase or procurement of rice, wheat, potato, onion, garlic, peas, chickpeas, lentils, ginger, turmeric, dried chillis, pulses, maize, coarse flour, flour, salt, edible oil, sugar, black pepper, cinnamon, cardamom, clove, date, cassia leaf, computer accessories, jute, cotton, yarn or and all kinds of fruits.

Example 1: A Ltd. has issued a local L/C of Tk. 2 crore in favor of X Ltd for supplying machineries. The machineries are to be used by A Ltd. in its factory. Under such circumstances Section 52U will not be applicable as the machineries are not purchased for resale even though it has been purchased through local L/C. In this case Section 52 and Rule 16 will be applicable.

Example 2: A Ltd. has issued a 90 days local L/C of Tk. 1 crore in favor of X Ltd (issued by Sonali Bank) for supplying electronic goods as per contract. The electronic goods are to be sold by A Ltd. through its different showrooms. Under such circumstances the L/C issuing bank i.e. Sonali Bank will deduct 3% TDS under section 52U at the time of paying or crediting the proceeds to X Ltd. The L/C negotiating Bank will not deduct any other TDS in this regard.

Example 3: A Ltd. has issued a 120 days local L/C of Tk. 10 crore in favor of X Ltd (issued by Prime Bank) on July 25, 2016 for supplying electronic goods as per contract. The electronic goods are to be sold by A Ltd. through its different showrooms. X Ltd. has sold the L/C to his bank Jamuna Bank Limited on August 01, 2016 under Inland Documentary Bill Purchase (IDBP) / Local Documentary Bill Purchase (LDBP) term. Under such circumstances the L/C negotiating bank i.e. Jamuna Bank will set the bill purchase price considering 3% TDS. At the end of the maturity the L/C issuing bank i.e. Sonali Bank will deduct 3% TDS (u/s 52U) at the time of paying or crediting the proceeds to Jamuna Bank and will issue a Tax Deduction at Source Certificate to A Ltd.

14.4.26 Deduction from payment by cellular mobile phone operator (U/s – 52V)

The Principal Officer of a cellular mobile phone operator company responsible for making any payment, on account of any revenue sharing or any license fees or any other fees or charges, called by whatever name, to the regulatory authority, shall deduct tax at the rate of ten percent (10%) of such payment at the time of credit to the payee or at the time of payment thereof, whichever is earlier.

14.4.27 Importers (U/s – 53 & Rule 17A)

The Commissioner of Customs or any appropriate officer shall collect an amount calculated at the rate of 5%, 2% & Tk. 800 respectively of the value of the imported goods in accordance with the list of goods specified in Rule 17A.

Notes: (1) In rule 17A, there is a list of 212 categories of imports with respective H. S. Code upon which no tax has to be collected at source. The list also contains some 18 goods imported from Bhutan which are also exempted from TDS. (2) The Board may exempt the importer of paying any taxes on application to the Board by the importer explaining that he is not likely to have any taxable income during the period.

14.4.28 Income from House Property (U/s – 53A)

Where, the Government or any authority, corporation or body, or any banking company or any co-operative bank or any non-governmental organization run or supported by any foreign donation or assistance or any university or medical college or dental college or engineering college or any college or school or hospital or clinic or diagnostic centre is a tenant in respect of a house property, the tenant shall deduct from the house rent paid or payable to the owner of a house property as advance tax @ 5%.

Notes: (1) In final assessment if it reveals that the earnings of the owner of the house property is not taxable, he is eligible to get refund in full or if the amount deducted is in excess, he is eligible to get refund to the extent of excess amount. (2) The DCT may issue a certificate to the owner on application by him explaining that his income is not assessable; payment of house rent to the owner would be made without any deduction until the certificate is cancelled.

14.4.29 Shipping Business (U/s – 53AA)

TDS @ 5% of the total freight received or receivable by a ship owned or chartered by a resident assessee for carrying passengers, livestock, mails or goods at the time of granting port clearance by customs authority, unless a certificate is received in prescribed manner from Deputy Commissioner of Taxes concerned. The deduction so made shall be treated as final tax liability under section 82C of the IT Ordinance. *Provided tax shall be collected @ 3% of total freight received or receivable from services rendered between two or more foreign countries.*

14.4.30 Income Derived from Export of Manpower (U/s – 53B & Rule – 17C)

The Director General, Bureau of Manpower, Employment and Training shall, before giving clearance (immigration clearance certificate) for export of any manpower, collect from the concerned exporter as advance tax at the rate of 10% of the service charge or fees.

14.4.31 Export of Certain Items (U/s – 53BB, SRO – 257/AIN/IT/10.08.16; 207/AIN/IT/29.06.16)

Tax is deducted at the rate of 1% on the total export proceeds by the concerned bank at the time of crediting the proceeds to the account of the exporter of knit wear and woven garments, terry towel, carton and accessories of garments industry, jute goods, frozen food, vegetables, leather goods, packed food. But the following two SROs has been issued to revise the rate of TDS:

This rate will be 0.70% for the export of all items except jute products from July 01, 2017 to June 30, 2018 [SRO – 256/AIN/IT/01.08.17]

This rate will be 0.60% for the export of jute products from July 01, 2016 to June 30, 2019 [SRO – 207/AIN/IT/29.06.16]

Example: Suppose, Mr. X exported knitwear and woven garments amounting to taka 1,000,000 and TDS will be taka 7,000 (0.70% of taka 1,000,000).

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Note: NBR may give a certificate on the basis of the assessee's application not to deduct tax or to deduct tax at a lesser rate if the income of the assessee is exempted from tax or is not liable to tax.

14.4.32 Member of Stock Exchange (U/s – 53BBB & SRO – 334/AIN/IT/27.10.2011)

Tax is collected at the rate of 0.05% on the total value of the shares, debentures, mutual funds, or securities transacted (buy and sell) by a member of stock exchange. The collection will be made by the Chief Executive Officer at the time of such payment. The collection so made shall be treated as final tax liability of the members under section 82C of the ITO.

14.4.33 Collection of tax from export of any goods except certain items (U/s – 53BBB; SRO – 256/AIN/IT/01.08.17): The exporter's bank shall deduct tax @ 1% of the total export proceeds at the time of crediting the proceeds to the account of exporter of any goods except knit wear and woven garments, terry towel, carton and accessories of garments industry, jute goods, frozen food, vegetables, leather goods, packed food. But the following SRO has been issued to revise the rate of TDS:

This rate will be 0.70% for the export of all items except jute products from July 01, 2017 to June 30, 2018 [SRO – 256/AIN/IT/01.08.17]

This rate will be 0.60% for the export of jute products from July 01, 2016 to June 30, 2019 [SRO – 207/AIN/IT/29.06.16]

Note: The exporter may apply to the Board that his income is partly or fully exempted from tax and the Board may issue a certificate to credit such amount without deducting tax at source or deducting tax at a lesser rate as mentioned in the certificate.

14.4.34 Public Auction (U/s – 53C & Rule – 17D)

Any person making sale, by public auction through sealed tender or otherwise, of any goods or property belonging to the Government or any authority, corporation or body, or any company, or any banking company, or any insurance company or any co-operative bank shall collect, before delivering the possession of the goods or the property, as advance tax on the income from the sale price of such goods or property from the auction purchaser at the rate of 5%. In this case, sale of any goods or property includes the awarding of any lease to any person, including a lease of the right to collect octroi duties, fees or other levies, by whatever name called, but does not include sale of a plot of land.

14.4.35 Deduction or collection of tax at source from courier business of a non-resident (U/s – 53CCC)

Any person being a company registered under the Companies Act, 1913 (VII of 1913) or the Companies Act, 1994 (XVIII of 1994) working as local agent of a non-resident courier company shall deduct or collect tax in advance at the rate of **fifteen percent (15%)** on the amount of service charge accrued from the shipment of goods, documents, parcels or any other things outside Bangladesh.

14.4.36 Actors or Actresses (U/s – 53D & Rule – 17E)

A person responsible for making any part or full payment for purchasing a film, drama or television or radio programme or for making any part or full payment to another person for performing in those areas shall deduct tax @ **10%** of the amount paid or payable at the time of making payment or credit of such payment to the account of the payee. *But no tax will be deducted under this section if the total payment does not exceed Tk. 10,000.*

14.4.37 Deduction of tax at source from export cash subsidy (U/s – 53DDD)

Any person responsible for paying any amount on account of export cash subsidy to an exporter for promotion of export shall, at the time of payment or credit of such amount, deduct/collect tax in advance at the rate of **three percent (3%)** on the amount so payable.

14.4.38 Commission, Discount or Fees (U/s – 53E)

1. Any company making a payment or allowing an amount to a distributor, called by whatever name, or to any other person by way of commission, discount, fees, incentive or performance bonus or any other performance related incentive or any other payment or benefit of the similar nature for distribution or marketing of goods, shall deduct or collect tax at the time of payment or allowing the amount at the rate of **ten percent (10%)** of the amount of payment or the amount allowed or the value of benefits allowed, as the case may be.
2. Any company making a payment in relation to the promotion of the company or its goods to any person engaged in the distribution or marketing of the goods of the company shall, at the time of payment, deduct tax at the rate of **one point five percent (1.5%)** of the payment.
3. Any company, other than an oil marketing company, which sells goods to-
 - (a) Any distributor, or
 - (b) Any other person under a contract at a price lower than the retail price fixed by such company, shall collect tax from such distributor or such any other person at the rate of **five percent (5%)** on the amount equal to $B \times C$, where-

B = the selling price of the company to the distributor or the other person;
C = 5%.

Provided that a cigarette manufacturer company shall collect tax at the time of sale of its goods to such distributor or to such other person at the rate of three percent (3%) of the difference between the sale price to the distributor or the other person and the retail price fixed by such company.

Explanation: For the purpose of this section,

“payment” includes a transfer, credit or an adjustment of payment

“contract” includes an agreement or an arrangement, whether written or not.

Example: Suppose, a product of X Company is selling in the market at a price of Tk. 110 per unit. The company sells the product to its distributor at a price of Tk. 100 per unit. If the company sells goods worth Tk. 800,000 to a distributor, the amount of TDS to be deducted from the distributor is: Base value on which TDS will be imposed = $(800,000 \times 6\%) = \text{Tk. } 48,000$ and TDS = $(48,000 \times 5\%) = \text{Tk. } 2,400$

14.4.39 Commission or Remuneration paid to Agent of Foreign Buyer (U/s – 53EE)

Where, as per the terms of the L/C or under any other instruction, a bank, through which an exporter receives payment for export of goods, pays any amount out of the export proceeds to the credit of any person being an agent or a representative of the foreign buyer, as commission, charges or remuneration, the bank shall deduct/collect tax in advance @ **10%** on the commission, charges or remuneration so paid at the time of such payment.

14.4.40 Interest on Savings or Fixed Deposits (U/s – 53F & Rule – 17H)

Any person responsible for paying to a resident any sum by way of interest on any saving deposits or fixed deposits or any term deposit maintained with any scheduled bank including a

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a co-operative bank, or bank run on Islamic principles or non-banking financial institution or any leasing company or housing finance company, as the case may be, shall deduct, at the time of credit of such interest or share of profit to the account of the payee or at the time of payment thereof, whichever is earlier, income tax on such sum at:

- (a) 10% where the accountholder furnishes his twelve digit TIN to the payer;
- (b) 15% where the accountholder fails to furnish his 12 digit TIN to the payer. The tax rate will be 10% for savings deposit if balance does not exceed Tk. 1 lac at any time in the year; or
- (c) 10% where the person receiving such interest or share of profit is a public university, or an educational institution whose teachers are enlisted for Monthly Pay Order (MPO), following the curriculum approved by the Government and whose governing body is also formed as per Government rules or regulations, or any professional institute established under any law and run by professional body of CA, Cost and Management Accountants or Chartered Secretaries.

Notwithstanding anything contained in this Ordinance or any other law for the time being in force in respect of exemption of tax from any fund, any person responsible for paying any sum by way of interest or share of profit on any saving deposits or fixed deposits or any term deposit maintained with any Scheduled bank including a co-operative bank or any bank run on Islamic principles or non-banking financial institution or any leasing company or housing finance company, as the case may be, by or in the name of a fund shall deduct, at the time of credit of such interest or share of profit to the account of the fund or at the time of payment thereof, whichever occurs earlier, income tax at the rate of five percent (5%) on such sum.

Nothing contained in this section shall apply:

- ❖ *to interest or share of profit arising out of any DPS sponsored by the government or by a scheduled bank with prior approval of the government.*
- ❖ *to such payee or class of payees as the Board may, by a general or special order, specify, that income of such payee or class of payee is otherwise exempted from tax.*

14.4.41 Real Estate or Land Development Business (U/s – 53FF)

Tax is collected at the following rate from persons engaged in the real estate or land development business at the time of registration of such land and building:

- (a) In the case of building or apartment constructed for residential and commercial/ non-residential purposes TDS is as follows per square meter –

	Residential purpose	Commercial purpose
1. Gulshan Model Town, Banani, Baridhara, Motijheel C/A and Dilkusha C/A of Dhaka	Tk. 1,600 per square meter	Tk. 6,000 per square meter
2. Dhanmondi R/A, Defence Officers Housing Society (DOHS), Mohakhali, Lalmatia Housing Society, Uttara Model Town, Bashundhara R/A, Dhaka Cantonment Area, Karwan Bazar C/A of Dhaka, and Panchlaish R/A, Khulshi R/A, Agrabad and Nasirabad of Chittagong	Tk. 1,500 per square meter	Tk. 5,000 per square meter
3. In areas other than the areas mentioned in sub-clauses (i) and (ii)-		

A. if the area is within Dhaka South City Corporation, Dhaka North City Corporation and Chittagong City Corporation	Tk. 1,000 per square meter	Tk. 3,500 per square meter
B. if the area is within any other City Corporation	Tk. 700 per square meter	Tk. 2,500 per square meter
C. any other area	Tk. 300 per square meter	Tk. 1,200 per square meter

Provided that the rate of source tax under clause (a) in respect of a residential apartment shall be twenty percent (20%) lower if the size of the apartment, including common space, is not more than seventy square metre, and forty percent (40%) lower if the size of the apartment, including common space, is not more than sixty square metre.

- (b) In the case of land to which the document relates and on which stamp duty is chargeable under the Stamp Act, 1899 (Act No. II of 1899) at the rate of:
- (i) **Five percent (5%)** for Dhaka, Gazipur, Narayanganj, Munshiganj, Manikganj, Narsingdi and Chittagong districts;
 - (ii) **Three percent (3%)** for any other district.

14.4.42 Insurance Commission (U/s – 53G)

Any person responsible for paying to a resident any sum by way of commission or otherwise, for soliciting or procuring insurance business including business relating to the continuance, renewal or revival of policies of insurance, shall, at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a check/draft or any other mode, whichever is earlier, deduct income tax on such sum @ **5%**.

Example: If the payment amounts to, say, taka 60,000 then the amount of TDS will be taka 3,000 (5% of taka 60,000).

14.4.43 Surveyors of General Insurance Company (U/s – 53GG)

A person (generally insurance companies) responsible for paying to a resident any sum by way of remuneration or fees for conducting any survey regarding settlement of claim of insurance shall, at the time of payment, deduct income-tax on such sum @ **15%**.

14.4.44 Transfer of Property (U/s – 53H and Rule 17II)

Any registering officer responsible for registering any document of a person under the provisions of clause (b), (c) or (e) of sub-section (1) of section 17 of the Registration Act, 1908 (XVI of 1908) shall not register any document unless tax is paid at such rate as may be prescribed in relation to the property to which the document relates and on which stamp-duty is chargeable under Stamp Act, 1899 (II of 1899) by the person whose right, title or interest is sought to be transferred, assigned, limited or extinguished thereby, at the time of registration of such document. Provided that the rate of tax shall not exceed **Tk. 10,80,000** per katha (1.65 decimal) for land, **Tk. 90** per square feet for any structure, building, flat, apartment or floor space on the land, if any, or **four per cent (4%)** of the deed value, whichever is higher.

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Nothing in this section shall apply to a document relating to:

- ❖ *sale by a bank or any financial institution as a mortgagee empowered to sell;*
- ❖ *mortgage of any property to any bank or any financial institution against any loan;*

Rate of Tax (Rule 17II):

- a. Rate of tax for land or land & building located in the following commercial areas:

Name of the commercial area or areas	Rate of tax per katha (1.65 decimal)
Gulshan, Banani, Motijheel, Dilkhusha, North South Road, Motijheel Expansion areas and Mohakhali of Dhaka	4% of the deed value or taka 10,80,000/- whichever is higher
Karwan Bazar of Dhaka	4% of the deed value or taka 6,00,000/- whichever is higher
Agrabad and CDA Avenue of Chittagong	4% of the deed value or taka 3,60,000/- whichever is higher
Narayanganj, Banga Bandhu Avenue, Badda, Sayedabad, Postogola and Gandaria of Dhaka	4% of the deed value or taka 3,60,000/- whichever is higher
Uttara Sonargaon Janapath, Shahbag, Panthapath, Banglamotor, Kakrail of Dhaka	4% of the deed value or taka 6,00,000/- whichever is higher
Nababpur and Fulbaria of Dhaka	4% of the deed value or taka 3,00,000/- whichever is higher

Provided that where any structure, building, flat, apartment or floor space is situated on the land, an additional tax shall be paid at the rate of taka 600/- (six hundred) per square meter or four per cent of the deed value of such structure, building, flat, apartment or floor space, whichever is higher.

- b. Rate of tax for land or land & building located in the following areas:

Name of the area or areas	Rate of tax per katha
Uttara (Sector 1-9), Khilgaon rehabilitation area (beside 100 feet road), Azimpur, Rajarbagh rehabilitation area (beside bishwa road), Baridhara DOHS, Bashundhara (Block: A-G), Niketon of Dhaka, Agrabad, Halishohar, Panchlaish, Nasirabad, Mehedibag of Chittagong	4% of the deed value or taka 90,000/- whichever is higher
Gulshan, Banani and Baridhara of Dhaka	4% of the deed value or taka 3,00,000/- whichever is higher
Dhanmondi of Dhaka	4% of the deed value or taka 2,40,000/- whichever is higher
Kakrail, Segunbagicha, Bijoy Nagar, Eskaton, Green Road, Elephant Road, Fakirapool, Arambagh, Maghbazar (within one hundred feet of main road), Tejgaon Industrial Area, Sher-e-Banglanagar Administrative Area, Agargaon Administrative Area, Lalmatia, Mohakhali DOHS, Cantonment of Dhaka and Khulshi of Chittagong	4% of the deed value or taka 1,80,000/- whichever is higher

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Kakrail, Segunbagicha, Bijoy Nagar, Eskaton, Green Road, Elephant Road area (outside one hundred feet of main road) of Dhaka	4% of the deed value or taka 1,20,000/- whichever is higher
Green Road (from Road 3 to 8 of Dhanmondi Residential Area of Dhaka)	4% of the deed value or taka 2,40,000/- whichever is higher
Uttara (Sector 10 to 14), Nikunj (south), Nikunj (North), Badda Rehabilitation Area, Ganderia Rehabilitation Area, Syampur Rehabilitation Area, IG Bagan Rehabilitation Area, Tongi Industrial Area of Dhaka	4% of the deed value or taka 60,000/- whichever is higher
Syampur Industrial Area, Postagola Industrial Area and Jurain Industrial Area of Dhaka	4% of the deed value or taka 48,000/- whichever is higher
Khilgaon Rehabilitation Area (beside less than 100 feet road), Rajarbagh Rehabilitation Area (beside 40 feet and other internal road) of Dhaka	4% of the deed value or taka 72,000/- whichever is higher:
Goran (beside 40 feet road) and Hajaribagh Tannery Area of Dhaka	4% of the deed value or taka 30,000/- whichever is higher

Provided that where any structure, building, flat, apartment or floor space is situated on the land, an additional tax shall be paid at the rate of taka 600/- (six hundred) per square meter or four per cent of the deed value of such structure, building, flat, apartment or floor space, whichever is higher.

c. Rate of tax for land or land & building located in the following areas:

Name of the commercial area or areas	Rate of tax per katha (1.65 decimal)
Within the jurisdiction of Rajdhani Unnayan Kartripakya (RAJUK) and Chittagong Development Authority (CDA) except areas specified in schedule (a) and (b)	4% of the deed value
Within the jurisdiction of Gazipur, Narayanganj, Munshiganj, Manikganj, Narsingdi, Dhaka and Chittagong districts [excluding Rajdhani Unnayan Kartripakya (RAJUK) and Chittagong Development Authority (CDA)], and within any City Corporation (excluding Dhaka South City Corporation and Dhaka North City Corporation) and Cantonment Board	3% of the deed value
Areas within the jurisdiction of a paurasabha of any district headquarter	3% of the deed value
Areas of any other Pauroshova	2% of the deed value
Any other area not specified in schedule (a), (b) and (c)	1% of the deed value

Example 1: A piece of 5 katha plot, situated in Gulshan under the jurisdiction of Rajuk area, is sold out with a deed value of Tk. 9 Crore. What income tax is to be collected at the time of registration in this regard? (a) Income tax payable @ Tk. 10,80,000 per katha (Tk. 10,80,000 × 5) = Tk. 54,00,000 and (b) 4% of Deed Value = (Tk. 9,00,00,000 × 4%) = Tk. 36,00,000. So, the income tax payable amount during registration will be higher of above (a) and (b) i.e. Tk. 54,00,000.

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Example 2: Mr. Hasan has purchased a 2,500 Sq. flat (with proportional ownership of 0.5 katha land) from a Real Estate Developer Company in Dhanmondi R/A. The Deed Value of the flat is Tk. 57,50,000 (value of land Tk. 20,00,000 and value of flat Tk. 37,50,000). Under such circumstances, what will be the amount of income tax payable during registration under Section 53FF and 53H?

Income tax payable under Section 53F: $(1,500 \times 2,500)/10.76 = \text{Tk. } 348,513$ [1 Sq. meter = 10.76 Sq. feet]. Income tax payable under Section 53H: Income tax payable for land - (a) Tk. 240,000 per katha (Tk. 240,000 \times 0.5) = Tk. 120,000 and (b) 4% of Deed Value = (Tk. 20,00,000 \times 4%) = Tk. 80,000. So, the income tax payable amount during registration for land will be higher of above (a) and (b) i.e. Tk. 120,000. Income tax payable for flat - (a) Tk. 600 per Sq. Meter: $(600 \times 2,500)/10.76 = \text{Tk. } 139,405$ [1 Sq. meter = 10.76 Sq. feet] and (b) 4% of Deed Value = (Tk. 37,50,000 \times 4%) = Tk. 150,000. So, the income tax payable amount during registration for flat will be higher of above (a) and (b) i.e. Tk. 150,000. Therefore, the total income tax payable amount for the land and flat will be (Tk. 120,000 + Tk. 150,000) = Tk. 270,000.

14.4.45 Collection of tax from lease of property (U/s – 53HH)

Any registering officer responsible for registering under the Registration Act, 1908 (XVI of 1908) any document in relation to any lease of immovable property for not less than ten years from any authority formed or established under any law or from any other person being an individual, a firm, an association of persons, a Hindu Undivided Family, a company or any artificial judicial person shall not register such document unless tax is paid @ 4% by the lessor on the lease amount of such property.

Explanation: For the purpose of this section, "any authority" shall mean Rajdhani Unnayan Kartripakkha (RAJUK), Chittagong Development Authority (CDA), Rajshahi Development Authority (RDA), Khulna Development Authority (KDA) or National Housing Authority."

14.4.46 Interest on Deposit of Post Office Savings Bank Account (U/s – 53I)

Tax shall be deducted at the rate of 10% on any amount of interest paid from post office savings bank account by interest paying authority at the time of credit to the account or payment whichever is earlier.

14.4.47 Rental Value of Vacant Land or Plant or Machinery (U/s – 53J)

Tax shall be deducted @ five percent at the time of payment of rent or credit of such payment to the account of the payee of vacant land or plant/machinery by the rent paying authority.

14.4.48 Advertising Bill of Newspaper or Magazine or Private Television Channel etc. (U/s – 53K):

Tax shall be deducted at the rate of 4% for making any payment to newspaper or magazine or private television channel or private radio station or any web site or any person on account of advertisement or purchasing airtime of private television channel or radio station or such web site by the paying authority.

14.4.49 Transfer of securities or mutual fund units by sponsor shareholders of a company etc. (Sec – 53M): The SEC or Stock Exchange, as the case may be, at the time of transfer or declaration of transfer or according consent to transfer of securities or mutual fund units of a sponsor shareholder or director or placement holder of a company or sponsor or placement holder of a mutual fund listed with a Stock Exchange shall collect tax @ 5% on the difference between transfer value and cost of acquisition of the securities.

Explanation: For the purpose of this section: (1) 'transfer' includes transfer under a gift, bequest, will or an irrevocable trust (2) 'transfer value' of a security or a mutual fund unit shall be deemed

to be the closing price of securities or mutual fund units prevailing on the day of consent accorded by the SEC or the Stock Exchange, as the case may be, or where such securities or mutual fund units were not traded on the day such consent was accorded, the closing price of the day when such securities or mutual fund units were last traded.

14.4.50 Collection of tax from transfer of share (Sec – 53N):

The Principal Officer of a stock exchange shall deduct tax at the rate of fifteen per cent on any profits and gains arising from the transfer of share of a shareholder of stock exchange established under the Exchanges Demutualization Act, 2013 (Act No. 15 of 2013) at the time of transfer or declaration of transfer or according consent to transfer of such share, whichever is earlier. Here, for the purpose of the computation of profits and gains of share, the cost of acquisition of such share shall be the cost of acquisition incurred before the Exchanges Demutualization Act, 2013 (Act No. 15 of 2013)] came into force.

Computation of cost of acquisition per share and tax on profit from transfer of shares:

- a) Cost of acquisition of all shares and TREC (Trading Right Entitlement Certificate) will be the amount paid by a shareholder company of Demutualised Stock Exchange to obtain the membership of former mutualised stock exchange.
- b) Cost of acquisition of all shares and TREC (Trading Right Entitlement Certificate) will be the amount shown in the balance sheet prior to demutualization (i.e. November 21, 2013) for obtaining the membership. If a shareholder company revalues this amount through revaluation and shows the difference in value under revaluation reserve, the revalued amount cannot be considered as cost of acquisition. Only the original cost of acquisition will be considered in this.
- c) Total cost of acquisition will be divided by total number of shares to obtain cost of acquisition per share.
- d) Profit or gain will be computed by deducting the cost of acquisition of transferred shares from selling/transferred price of such shares. 15% TDS will be applied on such profit or gain.
- e) Since cost of acquisition of all shares is the amount paid by a shareholder company of Demutualised Stock Exchange to obtain the membership of former mutualised stock exchange, cost of acquisition of TREC (Trading Right Entitlement Certificate) will be considered as nil and any profit or gain obtained from transfer of TREC will be considered as capital gain. 15% TDS under section 53N will not be applicable on this profit rather 15% tax on capital gain for companies under second schedule of ITO, 1984 will be applicable.
- f) These provisions are applicable from July 01, 2014.

Example 1: A Securities Ltd. is a current shareholder and former member of both DSE and CSE. After the demutualization, the company has received 72,15,106 shares from DSE and 42,87,330 shares from CSE of face value Tk. 10 each in addition to one TREC from both the stock exchanges. The details from the balance sheet on 31/12/2014 were:

	DSE	CSE
Original cost of membership acquisition	Tk. 1,16,06,000	Tk. 50,00,000
After Revaluation: Value of membership (on Assets side)	Tk. 7,21,51,060	Tk. 4,28,73,300
Revaluation reserve (on Equity section)	Tk. 6,05,45,060	Tk. 3,78,73,300

On March 2017, the company has sold 30 lac shares of DSE @ Tk. 90; 10 lac shares of CSE @ Tk. 85 and the TREC of CSE @ Tk. 5 crore. What will be amount of TDS in this regard?

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	DSE	CSE
Cost of acquisition to obtain the membership	Tk. 1,16,06,000	Tk. 50,00,000
No. of shares obtained from demutualised stock exchange	72,15,106	42,87,330
Cost of acquisition per share (1÷2)	Tk. 1.606857	Tk. 1.16622
No. of shares sold/transferred	30,00,000	10,00,000
Selling/transfer price per share	Tk. 90	Tk. 85
Total proceeds from Selling/transfer price of shares (Tk.)	27,00,00,000	8,50,00,000
Cost of acquisition of transferred/sold shares (4×3)	Tk. 48,25,710	Tk. 11,66,220
Profit from transfer/sale of shares (6-7) (Tk.)	26,51,74,290	8,38,33,780
Rate of TDS under section 53N	15%	15%
Amount of TDS (8×15%) (Tk.)	3,97,76,143	1,25,75,067

Note: The full amount of proceeds from sale of the CSE TREC Tk. 5 crore will be considered as capital gain and 15% TDS under section 53N will not be applicable on this profit rather 15% tax on capital gain for companies under second schedule of ITO, 1984 will be applicable.

Example 2: B Securities Ltd. is a current shareholder and former member of the DSE. After the demutualization, the company has received 72,15,106 shares from DSE in addition to one TREC. Original cost of acquisition to obtain the DSE membership was Tk. 80,00,000 and the company has shown this amount as asset in the balance sheet on 31/12/2014 i.e. they haven't done any kind of revaluation. On January 2017, the company has sold 20 lac shares of DSE @ Tk. 50 each. Amount of TDS under section 53N in this regard will be as follows:

Cost of acquisition to obtain the membership	Tk. 80,00,000
No. of shares obtained from demutualised stock exchange	72,15,106
Cost of acquisition per share (1÷2)	Tk. 1.10878
No. of shares sold / transferred	20,00,000
Selling / transfer price per share	Tk. 50
Total proceeds from Selling / transfer price of shares	Tk. 10,00,00,000
Cost of acquisition of transferred / sold shares (4×3)	Tk. 22,17,560
Profit from transfer / sale of shares (6-7)	Tk. 9,77,82,440
Rate of TDS under section 53N	15%
Amount of TDS (8×15%)	Tk. 1,46,67,366

Example 3: C Securities Ltd. is a current shareholder and former member of the DSE. After the demutualization, the company has received 72,15,106 shares from DSE in addition to one TREC. Original cost of acquisition to obtain the DSE membership was Tk. 32,02,00,000 and the company has shown this amount as asset in the balance sheet on 30/06/2014 i.e. they haven't done any kind of revaluation. On September 2016, the company has sold 5 lac shares of DSE @ Tk. 40 each. Amount of TDS under section 53N in this regard will be as follows:

Cost of acquisition to obtain the membership	Tk. 32,02,00,000
No. of shares obtained from demutualised stock exchange	72,15,106
Cost of acquisition per share (1÷2)	Tk. 44.37911
No. of shares sold / transferred	5,00,000
Selling / transfer price per share	Tk. 40
Total proceeds from Selling / transfer price of shares	Tk. 2,00,00,000
Cost of acquisition of transferred / sold shares (4×3)	Tk. 2,21,89,555
Profit (loss) from transfer / sale of shares (6-7)	(Tk. 21,89,555)
Rate of TDS under section 53N	15%
Amount of TDS*	Nil

Note*: Since no profit has been earned from the transfer of shares, no TDS will be applicable under section 53N in this regard.

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Example 4: D Securities Ltd. is a current shareholder and former member of the CSE. After the demutualization, the company has received 42,87,330 shares from CSE in addition to one TREC. Original cost of acquisition to obtain the CSE membership was Tk. 3,00,000 and the company has shown this amount as asset in the balance sheet on 30/06/2014 i.e. they haven't done any kind of revaluation. On January 2017, the company has sold 10 lac shares of CSE @ Tk. 30 each. What will be amount of TDS under section 53N in this regard?

Cost of acquisition to obtain the membership	Tk. 3,00,000
No. of shares obtained from demutualised stock exchange	42,87,330
Cost of acquisition per share (1÷2)	Tk. 0.06997
No. of shares sold / transferred	10,00,000
Selling / transfer price per share	Tk. 30
Total proceeds from Selling / transfer price of shares	Tk. 3,00,00,000
Cost of acquisition of transferred / sold shares (4×3)	Tk. 69,970
Profit from transfer / sale of shares (6-7)	Tk. 2,99,30,030
Rate of TDS under section 53N	15%
Amount of TDS (8×15%)	Tk. 44,89,504

Example 5: E Securities Ltd. is a current shareholder and former member of the CSE. After the demutualization, the company has received 42,87,330 shares from CSE in addition to one TREC. Original cost of acquisition to obtain the CSE membership was Tk. 28,00,00,000 and the company has shown this amount as asset in the balance sheet on 30/06/2014 i.e. they haven't done any kind of revaluation. On April 2017, the company has transferred 10 lac shares of CSE @ Tk. 70 each. What will be amount of TDS under section 53N in this regard?

Cost of acquisition to obtain the membership	Tk. 28,00,00,000
No. of shares obtained from demutualised stock exchange	42,87,330
Cost of acquisition per share (1÷2)	Tk. 67.17468
No. of shares sold / transferred	10,00,000
Selling / transfer price per share	Tk. 70
Total proceeds from Selling / transfer price of shares	Tk. 7,00,00,000
Cost of acquisition of transferred / sold shares (4×3)	Tk. 6,71,74,680
Profit from transfer / sale of shares (6-7)	Tk. 28,25,320
Amount of TDS @ 15% (under section 53N) (8×15%)	Tk. 4,23,798

14.4.51 Payment by Real Estate Developer to Land Owner (U/s – 53P)

Where any person engaged in real estate or land development business pays any sum to the land owner on account of signing money, subsistence money, house rent or in any other form called by whatever name for the purpose of development of the land of such owner in accordance with any power of attorney or any agreement or any written contract, such person shall deduct tax at the rate of **fifteen per cent (15%)** on the sum so paid at the time of such payment.

14.4.52 Dividend (U/s – 54 & Rule 19):

The principal officer deducts tax at the time of making payment from dividend income at:

Resident or Non – Resident Bangladeshi Recipient

- | | | | |
|---------------------------|-----------------------------|---|--|
| If the shareholder is a : | company | - | At the rate applicable to the company |
| | : person other than company | - | 10% - Assessee having 12 digit TIN |
| | | - | 15% - Assessee not having 12 digit TIN |

14.4.53 Lottery (U/s – 55)

The person responsible for paying any amount on account of winnings shall, at the time of making such payment, deduct tax at the rate of **20%**.

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14.4.54 Income of a Non – Resident (U/s – 56)

Subject to the provisions of sub-section (2), the specified person or any person responsible for making payment to a non-resident of any amount which constitutes the income of such non-resident chargeable to tax under this Ordinance shall, unless such person is himself liable to pay tax thereon as agent, at the time of making such payment, deduct tax on the amount so payable at the rate, specified below:

Descriptions of services or payments	Rate
Advisory or consultancy service	20%
Pre-shipment inspection service	20%
Professional service, technical services, technical know-how/ technical assistance	20%
Architecture, interior design/ landscape design, fashion design or process design	20%
Certification, rating etc.	20%
Charge or rent for satellite, airtime or frequency, rent for channel broadcast	20%
Legal service	20%
Management service including event management	20%
Commission	20%
Royalty, license fee or payments related to intangibles	20%
Interest	20%
Advertisement broadcasting	20%
Advertisement making or Digital marketing	15%
Air transport or water transport	7.5%
Contractor or sub-contractor of manufacturing, process or conversion, civil work, construction, engineering or works of similar nature.	7.5%
Supplier	7.5%
Capital gain	15%
Insurance premium	10%
Rental of machinery, equipment etc.	15%
Dividend- (a) company	20%
(b) any other person, not being a company	30%
Artist, singer or player	30%
Salary or remuneration	30%
Exploration or drilling in petroleum operations	5.25%
Survey for oil or gas exploration	5.25%
Any service for making connectivity between oil or gas field and its export point	5.25%
Any payments against any services not mentioned above	20%
Any other payments	30%

Note:

1. NBR can issue a certificate upon an application of non-resident to exempt or deduct at a lower rate when it is satisfied that the income of the non-resident would be free of tax or chargeable at a lesser rate than specified.
2. In this section –
 - the specified person means – (i) the Government, or any authority, corporation or body of the Government, including its units, the activities of which are authorized by any Act, Ordinance, Order or instrument having the force of law in Bangladesh; (ii) a project, programme or activity where the Government has any financial or operational

involvement; (iii) a joint venture or a consortium; (iv) a company as defined in clause (20) of section 2 of this Ordinance; (v) a co-operative bank; (vi) a co-operative society; (vii) a financial institution; (viii) a Non-Government Organisation registered with the NGO Affairs Bureau; (ix) a school, a college, an institute or a university; (x) a hospital, a clinic or a diagnostic centre; (xi) a trust or a fund; (xii) a firm; (xiii) a public-private partnership; (xiv) a foreign contractor, a foreign enterprise or an association or a body established outside Bangladesh; and (xv) any artificial juridical person not mentioned above;

- “payment” includes a transfer, a credit or an adjustment of payment;

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Specify the rate of tax deducted at sources under each of the following heads:

- | | |
|--|---------------------------------------|
| (a) Salaries | (b) Interest on securities |
| (c) Clearing and forwarding agents | (d) Freight forward agency commission |
| (e) Sale of goods or property by public auction. | |
-

14.5 CONSEQUENCES OF FAILURE TO DEDUCT/COLLECT TAX AT SOURCE [SEC – 57]

(1) Where a person –

- (a) fails to deduct or collect tax at source as required by or under chapter VII of I.T. Ordinance; or
- (b) deducts or collects tax at a lesser rate or in lesser amount; or
- (c) after deducting or collecting tax under this Chapter, fails to pay the same to the credit of the Government, or pays to the credit of the Government an amount lower than the collected or deducted amount;

such person shall be deemed to be an asseesee in default, and without prejudice to any other consequences to which such person may be liable, shall be personally liable to pay –

- (i) the amount of tax that has not been deducted or collected; or
- (ii) the amount which was required to be deducted or collected under this Chapter as reduced by the amount that has been actually deducted or collected; or
- (iii) the amount that, after being collected and deducted, has not been paid to the credit of the Government.

(2) In addition to the amount as mentioned in sub-section (1), the person shall also be liable to pay an additional amount at the rate of two percent (2%) per month on the amount as mentioned in sub-clauses (i), (ii) and (iii) of clause (c) of sub-section (1), as the case or cases may be, calculated for the period-

- (i) in the case of failure to deduct or collect, or of the deduction or collection at lower rate or amount, from the due date of the deduction or collection to the date of the payment of the amount, as mentioned in sub-clauses (i) or (ii) of clause (c) of sub-section (1), as the case may be, to the credit of the Government;
- (ii) in the case of failure to deposit the amount deducted or collected, from the date of deduction or collection to the date of payment of the amount, as mentioned in sub-clause (iii) of clause (c) of sub-section (1), to the credit of the Government.

Explanation: The period for which the additional amount is calculated shall not exceed twenty four months.

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- (3) The DCT shall take necessary action for the realisation of the amount as mentioned in sub-section (1) and the additional amount as mentioned in sub-section (2) from the person referred to in sub-section (1) after giving the person a reasonable opportunity of being heard.
- (4) No realisation of the amount mentioned in sub-section (1) shall be made if it is established that such amount has meanwhile been paid by the person from whom the deduction or collection was due.

14.6 CERTIFICATE OF DEDUCTION (U/S – 58 & RULE – 18)

Every person who deducts or collects tax shall furnish to the person to or from whom such deduction or collection has been made, a certificate of tax deduction or collection as per the specimen given in Rule 18 specifying therein –

- (a) The name and the Taxpayer's Identification Number, if any, of the person from whom tax has been deducted or collected;
- (b) The amount of deduction or collection of taxes;
- (c) Section or sections under which tax has been deducted or collected;
- (d) The particulars of the payment of deducted or collected amount to the credit of the Government; and
- (e) Such other particulars as may be prescribed in the specimen form.

The Board may, by notification in the official Gazette-

- (a) specify the cases in which the certificate of tax deduction or collection shall be generated or furnished electronically or in any other machine readable or computer readable media
- (b) specify the manner in which such electronic, machine readable or computer readable certificate shall be generated or furnished.

Consequences of the issuance of certificate of tax deduction or collection without actual deduction, collection or payment [Sec – 57A]:

- (1) Where a person issues a certificate of deduction or collection of tax at source without actual deduction or collection or payment to the credit of the Government, without prejudice to any other consequences to which he may be liable, the person shall be personally liable to pay the amount not being deducted, collected or paid to the credit of the Government.
- (2) The Deputy Commissioner of Taxes shall take necessary action for the collection of amount mentioned in sub-section (1) from the person so personally liable after giving the person a reasonable opportunity of being heard.

14.7 PAYMENT TO GOVERNMENT OF TAX DEDUCTED (U/S – 59 AND RULE - 13)

All sums deducted or collected at source have to be deposited to the national exchequer within the prescribed time specified in Rule 13 by the person making the deduction or collection to the credit of the Government or as the Board may direct:

In case of deduction or collection made in any:	Date of payment to the credit of the Government
(a) month from July to May of a year	within two weeks from the end of the month in which the deduction or collection was made
(b) day from June 01 to June 20 of a year	within seven days from the date in which the deduction or collection was made
(c) other dates of the month of June of a year	The next following day in which the deduction or collection was made

Provided that where the deduction or collection was made in the last two working days of the month of June of a year, the payment shall be made to the credit of the Government on the same day on which the deduction or collection was made.

14.8 MANNER OF PAYMENT OF TDS (RULE - 14)

The person responsible for making deduction or collection of tax under Chapter VII of the Ordinance shall pay the amount of tax so deducted or collected to the credit of the Government within the time specified in rule 13 by-

- (a) remitting it through an income tax challan into the Bangladesh Bank or the Sonali Bank, as the case may be; or
- (b) transferring the amount electronically in the manner as specified by the Board;

The Board may, by notification in the official Gazette, specify the manner in which the tax deducted or collected at source shall be paid or be electronically transferred to the credit of the Government.

14.9 MINIMUM TAX (U/S – 82C)

According to Section - 16BBB, where under the provisions of this Ordinance any minimum tax is to be charged, it shall be charged, levied, paid and collected accordingly. Notwithstanding anything contained in any other provisions of this Ordinance, minimum tax shall be payable by an assessee in accordance with the provisions of section 82C of the ITO, 1984. The provisions are:

14.9.1 Where minimum tax will be applicable? [Section 82C(2)]

- (1) Any tax deducted or collected at source under the provisions of sections 52, 52A, 52AAA, 52B, 52C, 52D, 52JJ, 52N, 52O, 52R, 53, 53AA, 53B, 53BB, 53BBB, 53BBBB, 53C, 53CCC, 53DDD, 53E, 53EE, 53F, 53FF, 53G, 53GG, 53H, 53M, 53N and 55 shall be the minimum tax on income from the source or sources from which tax has been deducted or collected. Sources of income on which TDS is considered as minimum tax are given below with related section reference:

Sources of Income		Reference
1.	Payments on account of execution of contract	52
2.	Payment on account of royalties, franchise, or the fee for using license, brand name, patent, invention, formula, process, method, design, pattern, knowhow, copyright, trademark, trade name, literary or musical or artistic composition, survey, study, forecast, estimate, customer list or any other intangibles.	52A
3.	Commission of Clearing & Forwarding (C&F) Agents	52AAA
4.	Banderole price to Cigarette Manufacturers	52B
5.	Compensation against Acquisition of Property	52C
6.	Interest on Savings Instruments	52D
7.	Travel agent's commission	52JJ
8.	Payment to any rental power company on account of purchase of rental power from that company	52N
9.	Salaries of foreign technician serving in a diamond cutting industry	52O
10.	Payment on account of International Gateway (IGW) Services in respect of international phone call receipt	52R
11.	Value of imported goods	53
12.	Total freight received or receivable by a ship owned or chartered by a resident assessee	53AA

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13.	Income Derived from Export of Manpower	53B
14.	Export of Certain Items (knit wear and woven garments, terry towel, carton and accessories of garments industry, jute goods, frozen food, vegetables, leather goods, packed food)	53BB
15.	Total value of the shares, debentures, mutual funds, or securities transacted (buy and sell) by a member of stock exchange.	53BBB
16.	Export of any goods except knit wear and woven garments, terry towel, carton and accessories of garments industry, jute goods, frozen food, vegetables, leather goods, packed food)	53BBBB
17.	Public Auction	53C
18.	Courier business of a non-resident	53CCC
19.	Export Cash Subsidy	53DDD
20.	Deduction at source from commission, discount, fees etc.	53E
21.	Commission or Remuneration paid to Agent of Foreign Buyer	53EE
22.	Interest on Savings or Fixed Deposits	53F
23.	Registration Cost through Real Estate or Land Development Business	53FF
24.	Insurance Commission	53G
25.	Remuneration or fees for conducting any survey regarding settlement of claim of insurance	53GG
26.	Transfer of Property	53H
27.	Transfer of securities or mutual fund units by sponsor shareholders of a company etc.	53M
28.	Transfer of share of Stock Exchange	53N
29.	Income from winning / lottery	55

Provided that the tax deducted or collected from the following sources shall not be the minimum tax:

- (i) Tax collected under section 52 from the following persons-
 - (a) a contractor of an oil company or a subcontractor to the contractor of an oil company as may be prescribed;
 - (b) an oil marketing company and its dealer or agent excluding petrol pump station;
 - (c) any company engaged in oil refinery;
 - (d) any company engaged in gas transmission or gas distribution;
 - (ii) tax deducted under section 53 from import of goods by an industrial undertaking as raw materials for its own consumption;
 - (iii) tax deducted under section 53F from a source other than the sources mentioned in clause (c) of sub-section (1) and sub-section (2) of that section;
- (2) for the sources of income for which minimum tax is applicable, books of accounts shall be maintained in the regular manner according to the provisions of section 35;
 - (3) income from any source, for which minimum tax is applicable under this sub-section, shall be determined in regular manner and tax shall be calculated by using applicable rate on such income. If the tax so calculated is higher than the minimum tax under clause (a), the higher amount shall be payable on such income. Provided that income shall be determined and tax shall be calculated for certain sources in the manner as specified in the following –

Sources of income as mentioned in	Amount that will be taken as income	Rate or amount of tax
Section 52C	amount of compensation as mentioned in section 52C	as mentioned in section 52C (2% or 1% as the case may be)
Section 52D	amount of interest as mentioned in section 52D	as mentioned in section 52D (5% as the case may be)
Section 53DDD	amount of export cash subsidy as mentioned in section 53DDD	as mentioned in section 53DDD (3% as the case may be)
Section 53F(1)(c) and (2)	amount of interest as mentioned in section 53F	As mentioned in section 53F (10%, 15% or 5% as the case may be)
Section 53H	Deed value as mentioned in section 53H	As mentioned in section 53H and the rule made thereunder.

- (4) income or loss computed in accordance with clause (d) or the proviso of clause (d) shall not be set off with loss or income, respectively, computed for any regular source.

14.9.2 Assessee having income from regular source in addition to the income from source or sources for which minimum tax is applicable [Section 82C(3)]

Where the assessee has income from regular source in addition to the income from source or sources for which minimum tax is applicable under section 82C(2)-

- regular tax shall be calculated on the income from regular source;
- the tax liability of the assessee shall be the aggregate of the tax as determined under sub-section (2) and the regular tax under clause (a).

14.9.3 Minimum tax for firm or companies [Section 82C(4)]

- every firm having gross receipts of more than taka fifty lakh or every company shall, irrespective of its profits or loss in an assessment year, for any reason whatsoever, including the sustaining of a loss, the setting off of a loss of earlier year or years or the claiming of allowances or deductions (including depreciation) allowed under this Ordinance, be liable to pay minimum tax in respect of an assessment year at the following rate:

Classes of assessee	Rate of minimum tax
Manufacturer of cigarette, bidi, chewing tobacco, smokeless tobacco or any other tobacco products	1% of the gross receipts
Mobile phone operator	0.75% of the gross receipts
Any other cases	0.60% of the gross receipts

Provided that such rate of tax shall be zero point one zero percent (0.10%) of such receipts for an industrial undertaking engaged in manufacturing of goods for the first three income years since commencement of its commercial production.

- where the assessee has an income from any source that is exempted from tax or is subject to a reduced tax rate, the gross receipts from such source or sources shall be shown separately, and the minimum tax under this sub-section shall be calculated in the following manner-

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- (i) minimum tax for receipts from sources that are subject to regular tax rate shall be calculated by applying the rate mentioned in clause (a);
- (ii) minimum tax for receipts from sources that enjoys tax exemption or reduced tax rate shall be calculated by applying the rate mentioned in clause (a) as reduced in proportion to the exemption of tax or the reduction of rate of tax;
- (iii) minimum tax under this sub-section shall be the aggregate of the amounts calculated under sub-clauses (i) and (ii).

Explanation - For the purposes of this sub-section, 'gross receipts' means-

- (i) all receipts derived from the sale of goods;
- (ii) all fees or charges for rendering services or giving benefits including commissions or discounts;
- (iii) all receipts derived from any heads of income.

14.9.4 Points to be noted while charging the minimum tax [Section 82C(5-9)]

- (i) Where the provisions of both sub-section (2) and sub-section (4) apply to an assessee, minimum tax payable by the assessee shall be the **higher** of (a) the minimum tax under sub-section (2); or (b) the minimum tax under sub-section (4).
- (ii) Minimum tax under this section shall not be refunded, nor shall be adjusted against refund due for earlier year or years or refund due for the assessment year from any source.
- (iii) Where any surcharge, additional interest, additional amount etc. is payable under provisions of this Ordinance, it shall be payable in addition to the minimum tax.
- (iv) Where the regular tax calculated for any assessment year is higher than the minimum tax under this section, regular tax shall be payable.
- (v) In this section-
 - (a) "regular source" means any source for which minimum tax is not applicable under sub-section (2);
 - (b) "regular tax" means the tax calculated on regular income using the regular manner;
 - (c) "regular tax rate" means the rate of tax, that would be applicable if the tax exemption or the reduced rate were not granted."

SELF REVIEW 14 – 3

Which of the given income fall under minimum tax liability provisions as per section 82C? Income from: (a) shipping business of resident assessee (b) Salary (c) export of manpower (d) brick manufacturing (e) real estate or land development business (f) winning or lottery.

14.10 BRIEF PROCEDURE OF DEDUCTION/COLLECTIONS OF TAX AT SOURCE

In the following table summery of TDS provisions are given for the convenience of the readers:

No.	Heads	With holding authority	Rate	Chalan in the name of
1.	Salaries [S-50]:	Any person responsible for deduction at average rate making such payment.		Respective Zone
	Salaries – Government [S-50 (1A)]:	Drawing and Disbursing Officer (DDO)	deduction at average rate	Respective Zone
	Discount on the real estate of Bangladesh	Any person responsible for making such payment.	maximum rate	LTU

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No.	Heads	With holding authority	Rate	Chalan in the name of
	Bank Bills [S-50 A]			
3.	Interest or profit on securities [51]	Any person responsible for issuing any security	5%	LTU
4.	(a) Execution of contract, other than a contract for providing or rendering a service mentioned in any other section of Chapter VII. (b) Supply of goods; (c) Manufacture, process or conversion; (d) Printing, packaging or binding [S - 52, rule - 16]	Specified person as mentioned in section 52	As prescribed in Rule 16	Zone-2 (Dhaka & Chittagong) & Other districts – Respective zone
5.	royalties, franchise, or the fee for using license, brand name, patent, invention, formula, process, method, design, pattern, knowhow, copyright, trademark, trade name, literary or musical or artistic composition, survey, study, forecast, estimate, customer list or any other intangibles [S - 52A]	Specified person as mentioned in section 52	With TIN: Base amount not exceeding 25 lacs 10%; base amount exceeding 25 lacs 12% No TIN: Tax rate will be 50% higher.	Dhk(Zn-8); Ctg (Zn-2); Others – Resp. Zone
6.	(a) Advisory or consultancy service (b) Professional service, Technical services fee, Technical assistance fee. (excluding professional services by doctors) [Sec 52AA]	Specified person as mentioned in section 52	Rates specified in Section 52AA	Dhk(Zn-8); Ctg (Zn-2); Others – Resp. Zone
	Professional services (by doctor) [section-52AA]	Specified person as mentioned in section 52	Rates specified in Section 52AA	Dhk (Zn-10); Ctg (Zn-2); Others – Resp. Zone

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Sl. No.	Heads	With holding authority	Rate	Chalan in the name of
(c)	Catering service	Specified person as mentioned in section 52	Rates specified in Section 52AA	Dhk(Zn-14); Ctg (Zn-2); Others – Resp. Zone
(d)	Cleaning service			
(e)	Collection & recovery service			
(f)	Private security service			
(g)	Manpower supply service			
(h)	Creative media service			
(i)	Public relations service			
(j)	Event management service			
(k)	Training, workshop, etc. organization and management service			
(l)	Media buying agency service			
(m)	Indenting commission			
(n)	Meeting fees, training fees or honorarium			
(o)	Credit rating agency			
(p)	Motor garage or workshop			
(q)	Private container port or dockyard service			
(r)	Shipping agency commission			
(s)	Stevedoring/berth operation commission			
(t)	Transport/carrying service, vehicle rental service			
(u)	Any other service which is not mentioned in Chapter VII, and is not a service provided by any bank, insurance or financial institutions [Section 52 AA]			

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No.	Heads	With holding authority	Rate	Chalan in the name of
	Mobile network operator, technical support service provider or service delivery agent engaged in mobile banking operations [section-52AA]	Specified person as mentioned in section 52	Rates specified in Section 52AA	LTU
7.	C & F agency commission [S-52AAA]	Commissioner of customs	10%	Dhk(Zn-15); Ctg (Zn-3); Others – Resp. Zone
8.	Manufacturer of non-mechanical Cigarettes (Bidi) [section 52B]	Any person responsible for selling banderols to a manufacturer of cigarettes. Any person responsible for collecting VAT	10% of the value of the banderols 3% of MRP	Dhk(Zn-10); Ctg (Zn-4); Others – Resp. Zone
9.	Compensation against acquisition of property [Section -52C]	Any person responsible for payment of such compensation	2% of the amount of such compensation against the immovable property if it is situated within City Corporation, Paurashava or Cantonment Board. else rate is 1%.	Dhk(Zn-15); Ctg (Zn-2); Others – Resp. Zone
10.	Interest on saving instruments [S-52D]	Any person responsible for making such payment	5%, but no TDS for a cumulative investment up to Tk. 500,000 on pensioners' savings certificate.	Dhk(Zn-10); Ctg (Zn-4); Others – Resp. Zone
11.	Payment to a beneficiary of Workers' Participation Fund	Any person responsible for making payment from such fund to a beneficiary	5%	All over BD (Except Chittagong) (Zn-3, Dhk); Ctg (Zn-2);
12.	Brick Manufacturer [section 52F]	Any person responsible for issuing any permission or renewal of permission for manufacture of bricks.	Tk. 45,000/- for one section; Tk. 70,000/- for 1.5 section Tk. 90,000/- for two sections; Tk. 150,000/- for automatic brick field.	Dhk(Zn-7); Ctg (Zn-4); Others – Resp. Zone
13.	Commission of letter of credit [section 52I]	Any person responsible for opening letter of credit.	5%	LTU, Dhaka Ctg (Zn-2)
14.	Collection of tax from travel agent [Section 52JJ]	Any person responsible for paying commission, discount or any benefit for selling air tickets or cargo carriage.	Rates specified in Section 52JJ	Dhk(Zn-4); Ctg (Zn-2); Others – Resp. Zone
15.	Renewal of trade license by City Corporation	City Corporation or Paurashava.	Rate for each trade license in city corporation: for	Dhk(Zn-3); Ctg (Zn-2);

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No.	Heads	With holding authority	Rate	Chalan in the name of
	poration or Paurashava [S-52K]		Dhaka and Chittagong Tk. 500 and for others Tk. 300 Rate for each trade license in Paurashava: for Paurashava at district headquarter Tk.300 & others Tk.100	Others – Resp. Zone
16.	Freight forward agency commission [section 52M]	Any person responsible for making such payment.	15%	Dhk(Zn-6); Ctg (Zn-3); Others – Resp. Zone
17.	Rental Power Company [section 52N]	Bangladesh Power Development Board during payment to any power generation co. against power purchase.	6%	Dhk(Zn-13); Ctg (Zn-3); Others – Resp. Zone
18.	Foreign technician serving in diamond cutting industries [section 52O]	Employer.	5%	Dhk (Zn-9)
19.	For services from convention hall, conference centre etc. [section 52P]	Any person, being a corporation, body or authority established by or under any law including any company/enterprise owned, controlled or managed by it, or a company registered under the Companies Act, 1994, any NGO registered with N.G.O Affairs Bureau or any university or medical/dental/ engineering college	5%	Dhk(Zn-4); Ctg (Zn-2); Others – Resp. Zone
20.	Tax deduction from resident for any income in connection with any service provided to any foreigner [S-52Q]	Paying or crediting authority (Bank/Financial institution/ Moneygram etc	10%	Dhaka (Zone-11)
21.	Tax deduction from receipts in respect of international phone call [S-52R]	Paying or crediting authority (Bank, IGW etc.)	1.5% when bank receives amount on behalf of IGW 7.5% if IGW pays to ICX, ANS or any other person	Dhaka (Zone-15)
22.	Collection of tax from manufacturer of soft drinks etc. [S-52S]	SPCL or any other person responsible	4% on value of soft drinks as determined for Value Added Tax (VAT) purpose	Gazipur Zone
23.	Any payment in excess of premium paid on life insurance policy [S-52T]	Any person responsible for paying to a resident.	5%, No TDS in case of death of policy holder	LTU

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No.	Heads	With holding authority	Rate	Chalan in the name of
24.	Deduction from payment on account of local L/C [S-52U]	The bank or financial institution	3% for total proceeds exceeding Tk. 500,000	Ctg & Cox-bazar dist- Ctg (Zn-2); all other districts – LTU
25.	Deduction from payment by cellular mobile phone operator [S-52V]	The principal officer of a cellular mobile phone operator company responsible for making any payment	10%	LTU
26.	Importer [section 53, Rule 17A]	The Commissioner of Customs	5% (general rate), 2% on certain imported goods, and Tk. 800 per ton in case of import of certain items	Dhk(Zn-14); Ctg (Zn-1); Others: Resp. Zone
27.	House property [section 53A]	The Govt./any authority, corporation or body or any co or any banking co or any cooperative bank or any NGO run or supported by any foreign donation or any university or medical college or dental college or eng. college or any college or school or hospital or clinic or diagnostic centre as tenant.	5% of the gross rent	Dhk(Zn-7); Ctg (Zn-2); Others – Resp. Zone
28.	Shipping business of a resident [section 53AA]	Commissioner of Customs or any other authority duly authorized.	5% of total freight received or receivable in or out of Bangladesh. 3% of total freight received or receivable from services rendered between two or more foreign countries.	Dhk(Zn-10); Ctg (Zn-4); Others – Resp. Zone
29.	Export of manpower [sec. 53B, rule-17C]	The DG, Bureau of Manpower, Employment & Training.	10%	Dhaka (Zone-4)
30.	Export of Knit-wear and woven garments /terry towel/carton & accessories of garments industry, jute goods, frozen food, vegetables, leather goods, packed food [S - 53BB]	Bank.	0.70% of the total export proceeds of all goods (other than jute goods); for jute goods 0.60%	Dhaka (Zone-4)
31.	Member of Stock Exch. [Sec- 53BBB]	The Chief Executive Officer of stock exchange.	0.05%	Dhk(Zn-7); Ctg (Zn-3)
32.	Export of any goods except the goods mentioned in section 53BB [53BBBB]	Bank.	0.70% of the total export proceeds of all goods (except the goods mentioned in sec - 53BB)	Dhaka (Zone-4)

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No.	Heads	With holding authority	Rate	Chalan in the name of
33.	Goods or property sold by public auction [S 53C & Rule 17D]	Any person making sale.	5% of sale price.	Dhk(Zn-9); Ctg (Zn-4); Others – Resp. Zone
34.	Courier business of a non-resident [Section 53CCC]	Any company working as local agent of a non-resident courier company	15% on the amount of service charge	Dhaka (Zone-11)
35.	Payment to actors and actresses or purchase of film drama, any kind of television or radio program [Sce-53D]	The person responsible for making payment.	(1) 10% on the payment in case of purchase of film, drama, any kind of TV or radio program (2) 10% on the payment to actor/actress where total payment is > Tk. 10,000.	Dhaka (Zone-12)
36.	TDS from export cash subsidy [S 53DDD]	Any person responsible for paying export cash subsidy.	3%	Dhaka (Zone-4)
37.	Commission, discount or fees [section 53E(1, 2)]	Any person being a corporati - on, body including a comp - any making such payment.	10%	Dhk(Zn-12); Ctg (Zn-4); Others – Resp. Zone
38.	Commission, discount or fees [section 53E(3)]	Any company other than oil marketing company	Rates specified in section 53E(2)	Dhk(Zn-12); Ctg (Zn-4); Others – Resp. Zone
39.	Commission or remuneration paid to agent of foreign buyer [section 53EE]	Bank.	10%	Dhk(Zn-6); Ctg (Zn-3); Others – Resp. Zone
40.	Interest on saving deposits and fixed deposits [section 53F(1)]	Any person responsible for making such payment.	10% where account holder furnishes TIN 15% where account holder fails to furnish TIN (but if the savings deposit balance doesn't exceed Tk. 100,000 at any time in the year the rate is 10%) 10% where account holder is a public university, edu- cational institution with MPO teachers, Profession- -al body run by ICAB, ICMAB (not apply on the amount of interest or share of profit arising out of any DPS sponsored by the government or by a schedule bank with prior approval of the Govern.)	Dhaka (Zone-1)

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No.	Heads	With holding authority	Rate	Chalan in the name of
	Interest on saving deposits and fixed deposits or any term deposits in the name of a fund [section 53F(2)]	Any person responsible for making such payment.	5%	Dhaka (Zone-1)
41.	Real estate or land development business [section 53FF]	Any person responsible for registering any document for transfer or any land or building or apartment.	<p>(i) Tk. 1,600 per square meter for building or apart-ment for residential pur-pose situated at Guls-han Model Town, Banani, Bari-dhara, Motijeel C/A & dilk-usa C/A of Dhaka and Tk. 6,500 per sq meter buil-ding for commercial pur-pose. Tk. 1500 per sq meter for residential building situated at DOHS, Dhanmo--ndi R/A, Lalmatia Housing Society, Uttara Model Town, Bashundhara R/A, Dhaka Cantonment Area, Karwan Bazar C/A of Dhaka and Khulshi R/A, Panchlaish R/A and Agrabad of Chittagong; and Tk. 5,000 per sq meter building used for commercial purpose.</p> <p>(ii) Tk. 1000 per square meter for residential building or apartment if it is situated in areas within Dhaka North & South, Chittagong city corp.; Tk. 700 for any other city corp.; and Tk. 300 for any other area and Tk. 1,600 per sq meter for commercial building</p> <p>5% of deed value in case of property situated in Dhaka, Narayanganj, Mun-shiganj, Manikganj, Narsi-ngdi, Gazipur, and Chitta-gong districts.</p> <p>3% of deed value for any other district.</p>	Dhk(Zn-5); Ctg (Zn-4); Others – Resp. Zone

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No.	Heads	With holding authority	Rate	Chalan in the name of
42.	Insurance commission [section 53G]	Person responsible for paying such commission to a resident.	5%	LTU
43.	Fees of surveyors of general insurance company [Sec. 53GG]	Any person responsible for paying such fees to resident	15%	LTU
44.	Transfer of property [section 53H]	Any person responsible for registering any document of a person.	Tk. 10,80,000 per katha for land, Tk. 600 per square meter for any structure, building, flat, apartment or floor space on the land, if any or 4% of the deed value, whichever is higher. (Details: Rule 17II)	Dhk(Central Survey Zone); Ctg (Zn-4); Others – Resp. Zone
45.	Collection of tax from lease of property [Section 53HH]	Any registering officer responsible for registering	4% of the lease amount	Dhk(Central Survey Zone); Ctg (Zn-4); Others – Resp. Zone
46.	Interest on deposit of post office saving bank account[sec 53I]	Any person responsible for making such payment.	10% (not applied if the total amount of interest is paid to such payee or class of payees as specified by the Board)	Dhk(Zn-9); Ctg (Zn-4); Others – Resp. Zone
47.	Rental value of vacant land or plant or machinery [section 53J]	The Government or any authority, corporation or body including its units, the activities or any NGO, any university or medical/dental/engineering college responsible for making such payment.	5% of the rent	Dhk(Zn-15); Ctg (Zn-4); Others – Resp. Zone
48.	Advertisement of newspaper or magazine or private television channel or private radio station or any web site or any person on account of advertisement or purchasing airtime of private television channel or radio station or such website [section 53K]	The Government or any other authority, corporation or body or any company or any banking company or any insurance company or any cooperative bank or any NGO or any university or medical/ dental/engineering college responsible for making such payment.	4%.	Dhk(Zn-5); Ctg (Zn-3); Others – Resp. Zone
49.	Tax from transfer of shares by the sponsor or shareholders of a company listed on stock exchange [Sec 53M]	Securities & Exchange Commission or Stock Exchange	5%	Dhk (Zn-3); Ctg (Zn-3)

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No.	Heads	With holding authority	Rate	Chalan in the name of
50.	Collection of tax from transfer of share of shareholder of stock exchanges [S-53N]	The principal officer of a stock exchange	15% on any profits and gains arising from transfer	Dhk (Zn-3); Ctg (Zn-3)
51.	Deduction of tax from any sum paid by the real estate developer to land owner [S-53P]	Real estate developer	15% of any payment made to land owner	Dhk(Zn-5); Ctg (Zn-2); Others – Resp. Zone
52.	Dividends [section 54]	The principal officer of a company.	Resident/non-resident Bangladeshi company: 20%; Resident/non - resident Bangladeshi person other than company - 10% for having TIN & 15% for not having TIN;	Dhk(Zn-13); Ctg (Zn-4); Others – Resp. Zone
53.	Income from lottery [section 55]	Any person responsible for making such payment.	20%	Dhk(Zn-9); Ctg (Zn-3); Others – Resp. Zone
54.	Income of non residents specified in section 56[section 56]	Any person responsible for making such payment.	Specified rates as prescribed in Section 56	Dhaka (Zone-11)
	Any other income of non-residents not specified in section 56	Any person responsible for making such payment.	30%	Central Survey Zone
57	Private motor vehicle advance tax [Section – 68B]	BRTA	Rate specified in section 68B	Central Survey Zone
58	Motor vehicle presumptive tax (SRO 160/2014)	BRTA	Rate specified in SRO No. 160/2014	Central Survey Zone
59	Cargo/Launch presumptive tax (SRO 162/2014)	BRTA	Rate specified in SRO No. 162/2014	Dhk(Zn-5); Ctg (Zn-3); Others – Resp. Zone

Illustration 14 – 1:

Biki (Bangladesh) Company Limited is engaged in trading business of consumable goods. During the income year ended on June 30, 2017, the company procured goods for commercial purposes from both home and abroad.

On July 2016:

purchased (home) Tk. 3,000,000 and imported at C & F value \$500,000.

On October 2016:

purchased (home) Tk. 4,000,000 and imported at C & F value \$400,000.

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Other data:

- ❖ Rate of exchange on July and October was \$1 = Tk. 60 and \$1 = Tk. 70 respectively.
- ❖ Assume that import duty @ 20% and supplementary duty @ 25% was paid at import stage.
- ❖ VAT and advance income tax (AIT) was also imposed at applicable rates at import stage.
- ❖ Custom's assessed value for goods imported in July 2016 and October 2016 was USD 550,000 and USD 440,000 respectively.
- ❖ All of the imported goods were sold to one special customer.

Goods purchased locally were sold to five different customers – A, B, C, D and E as follows:

	A (Tk.)	B (Tk.)	C (Tk.)	D (Tk.)	E (Tk.)
July 10, 2016	200,000	150,000	300,000	500,000	1,400,000
October 24, 2016	400,000	100,000	300,000	700,000	500,000
November 28, 2016	500,000	200,000	400,000	400,000	700,000
	<u>1,100,000</u>	<u>450,000</u>	<u>1,000,000</u>	<u>1,600,000</u>	<u>2,600,000</u>

From the above you are required to

- (i) Calculate following items borne by Biki (Bangladesh) Company Limited at import stage.
 - ❖ advance income tax (AIT),
 - ❖ supplementary duty (SD) and
 - ❖ value added tax (VAT)
- (ii) Calculate advance income tax deducted at source by each customer.

(ICAB adapted)

Solution 14 – 1:

Requirement (i): Computation of AIT, SD and VAT

	Amount in USD	Exchange Rate	Amount in BDT
Import value (as assessed by customs)			
July 2016	550,000	60	33,000,000
October 2016	440,000	70	30,800,000
Assessable value in BDT as per customs			63,800,000
Add: 1% insurance (CIF value is needed as base)			638,000
Assessable Value			64,438,000
Add: Import Duty @ 20%			12,887,600
Base value for Supplementary Duty			77,325,600
Add: Supplementary Duty @ 25%			19,331,400
Base Value for VAT			96,657,000
VAT @ 15%			14,498,550
			111,155,550
AIT @ 5% on assessable value			32,21,900
			<u>114,377,450</u>

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Requirement (ii):

Computation of AIT deducted at source by customers (U/s – 52 & Rule - 16)

Customers	Sales (BDT)	Applicable Rate	AIT (BDT)
(1)	(2)	(3)	(4) = 2 × 3
A	1,100,000	3%	33,000
B	450,000	1%	4,500
C	1,000,000	2%	20,000
D	1,600,000	3%	48,000
E	2,600,000	4%	104,000
Total	6,750,000		209,500

Note: Accumulation is not made as sales were made to five different customers.

KEY POINTS

1. In some specific areas, the paying authority is required to deduct tax at source before the income reaches to the assessee and hence the tax deducting authority is working as an agent of the government.
2. TDS is an advance payment of tax in terms of the assessee who will deduct this amount from his total tax liability at the year-end.
3. If the employer fails to deduct tax from the salary at the time of making the payment, he cannot charge it as allowable deduction.
4. No tax shall be deducted at source where the savings instrument is purchased by an approved superannuation fund or pension fund or gratuity fund or a recognized provident fund, or a workers' profit participation fund.
5. The Director General, Bureau of Manpower, Employment and Training shall collect from the concerned exporter as advance tax on income on account of manpower export at the rate of 10% of the service charge or fees.
6. Tax is collected the Chief Executive Officer at the rate of 0.05% on the total value of the shares, debentures, mutual funds, bonds or securities transacted (buy and sell) by a member of stock exchange.
7. For resident individual assessee TDS rate is 10% on dividend if he has TIN.
8. The person responsible for paying any amount on account of winnings of lottery shall, at the time of making such payment, deduct tax at the rate of 20%.
9. If a person fails to deduct taxes at sources who is empowered to do so or if he fails to deposit the deducted amount to the exchequer within the prescribed time, he would be treated as an assessee in default and would be personally liable for the non-payment.
10. The deducting authority shall deposit the tax deducted at source as per the provision of Rule 13.

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Multiple choice questions:

1. In which of the following cases, the tax deducting authority issues account payee check to the assessee to deposit the amount of tax deducted to the exchequer?–
 - (a) Salary
 - (b) Interest on Securities
 - (c) House Property
 - (d) Insurance Commission
2. When the tax deducting authority is required to deposit the sum deducted as TDS into the national exchequer in case of deduction or collection made in the month of September? –
 - (a) Within 3 week
 - (b) Within 1 month
 - (c) Within 2 week
 - (d) In 4 equal installments
3. What is the consequence of failure to deduct tax or failure to deposit the money to the government treasury within the specified time? –
 - (a) No consequences
 - (b) Payment of due tax
 - (c) Payment of due tax with a penalty of 2% interest for the period in default
 - (d) Giving penalty of 2% only
4. If the insurance commission amounts to taka 60,000, how much will be deducted as tax at source? –
 - (a) Nil
 - (b) Tk. 1,500
 - (c) Tk. 1,800
 - (d) Tk. 3,000
5. What is the amount of tax for a brick manufacturer having one section brickfield? –
 - (a) Nil
 - (b) Tk. 45,000
 - (c) Tk. 30,000
 - (d) Tk. 60,000
6. Which of the following source of income does not qualify for TDS –
 - (a) Income from Salary
 - (b) Income form Interest on Security
 - (c) Income from House Property
 - (d) Income from Agriculture
7. What is the rate of TDS for interest on security –
 - (a) 5%
 - (b) 10%
 - (c) 15%
 - (d) 20%
8. What is the rate of TDS for any payment made to a contractor that exceeds Tk. 25,00,000 –
 - (a) Nil
 - (b) 2%
 - (c) 5%
 - (d) 10%
9. Which of the above

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9. What is the rate of TDS for house property –
 (a) Nil
 (b) 2.5%
 (c) 4%
 (d) 5%
10. Which of the following case does not fall under the provision of minimum tax liability –
 (a) Deductions from salary
 (b) Deductions from the contractors or sub-contractors and suppliers
 (c) Collection of tax from member of stock exchange
 (d) Deduction from insurance commission

Identify the following statements as True (T) or False (F):

1. For advisory or consultancy service where base amount does not exceed Tk. 25 lakh, the rate of TDS is 10%.
2. For manufacture of cigarettes TDS rate is 6% of banderols value.
3. The deduction from shipping business shall be treated as minimum tax liability.
4. TDS is not applicable on the remuneration of actors or actresses.
5. No TDS is applicable on prize money of a lottery.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 14 – 1:** What do you mean by tax deducted at source (TDS)? Is there any difference between tax deducted at source (TDS) and withholding tax (WT)?
- Question 14 – 2:** “TDS is no good for both the government and the assessee” – do you agree? Explain.
- Question 14 – 3:** What are the incomes subject to deduction at source as per section 49?
- Question 14 – 4:** What are the consequences of failure to deduct tax or failure to deposit tax timely?
- Question 14 – 5:** Who is required to issue certificate of deduction and when?
- Question 14 – 6:** Who is required to deposit the amount of tax collected at source to the government treasury? Also discuss the exception to this rule (Rule - 14), if any.
- Question 14 – 7:** What do you understand by minimum tax liability? Discuss in the light of section 82C of I.T. Ordinance, 1984.
- Question 14 – 8:** Write short note on:
 (a) Income subject to TDS
 (b) Section 52 and Rule – 16
 (c) TDS on transfer of property
 (d) Minimum tax liability

Problem 14 – 1:

Assume that Mr. X expects to receive the following income from his employer as per the terms of employment that he should report under the head “income from salaries” during the year ending on June 30, 2017.

- (a) Basic salary- tk. 30000 p. m.
- (b) Dearness allowance – 15% of basic salary.

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- (c) Bonus – 2 months' basic salary.
- (d) House rent allowance –tk. 18000 p.m.
- (e) Medical expense reimbursed – tk. 18000 for the year.
- (f) Employer's contribution to recognized provident fund – 10% of basic salary (own subscription is also same).
- (g) Interest accrued on accumulated balance of recognized provident fund – tk. 7200 @ 18%.

Also assume that he will not claim credit for investment. Compute the average tax rate for Mr. X to deduct tax at sources from his salary income.

Problem 14 – 2:

Assume that XYZ Co. Ltd. have had the following payments to its single supplier for supply of goods:

First installment	on 1 st July, 2016	taka 100,000
Second installment	on 1 st October, 2016	taka 400,000
Third installment	on 1 st January, 2017	taka 500,000
Fourth installment	on 1 st April, 2017	taka 700,000
Fifth installment	on 1 st July, 2017	taka 300,000
Final installment	on 1 st October, 2017	taka 700,000

Compute the amount of TDS in the respective income years.

Problem 14 – 3:

Trade International Limited is engaged in trading business of consumable goods. During the income year ended on June 30, 2017, the company procured goods for commercial purposes from both home and abroad: On July 2016: purchased (home) Tk. 2,000,000 and imported at C & F value C\$500,000. On October 2016: purchased (home) Tk. 3,000,000 and imported at C & F value C\$400,000. Rate of exchange on July and October was C\$1 = Tk. 60 and C\$1 = Tk. 70 respectively. Assume that import duty @ 20% and supplementary duty @ 40% was paid at import stage. VAT and advance income tax (AIT) was also imposed at applicable rates at import stage. Custom's assessed value for goods imported in July 2016 and October 2016 was C\$ 600,000 and C\$ 500,000 respectively. All of the imported goods were sold to one special customer. But goods purchased locally were sold to five different customers – A, B, C, D and E as follows:

Date	Sales to Customer (in BDT)				
	A	B	C	D	E
July 10, 2015	200,000	150,000	300,000	80,000	400,000
October 24, 2015	400,000	400,000	300,000	700,000	500,000
November 28, 2015	500,000	500,000	400,000	400,000	400,000
Total	<u>1,100,000</u>	<u>1,050,000</u>	<u>1,000,000</u>	<u>1,180,000</u>	<u>1,300,000</u>

From the above you are required to –

- 1. Calculate advance income tax (AIT), supplementary duty (SD) and value added tax (VAT) incurred by Trade International Limited at import stage.
- 2. Calculate advance income tax deducted at source by each customer.

Answers:

Multiple choice questions		True/False
1. c	6. d	1. T
2. c	7. a	2. F
3. c	8. c	3. T
4. d	9. d	4. F
5. b	10. a	5. F

Self review 14 – 1:

- TDS is the abbreviation of Tax Deducted at Sources that means at the time of payment of any money by one assessee to another, the paying authority will act as an agent of the government and deduct tax at the rates as specified to deposit the same to the government.
- The paying authority will deduct tax from the assessee to whom such income will be flowed and will be taxable in his hand.
- It is advantageous to both the government and the assessee.

Self review 14 – 2:

SL	Heads	Rates
(a)	Salaries	Average rate
(b)	Interest on securities	5%
(c)	Clearing and forwarding agents	10%
(d)	Freight forward agency commission	15%
(e)	Sale of goods or property by public auction	5%

Self review 14 – 3:

SL	Income heads	Yes or No
(a)	Income from shipping business of resident assessee	Yes
(b)	Salary income	No
(c)	Export of manpower	Yes
(d)	Income of brick manufacturers	No
(e)	Income from real estate or land development business	Yes
(f)	Income from winning or lottery	Yes

CHAPTER – 15

ADVANCE INCOME TAX

LEARNING OBJECTIVES

After studying Chapter 15, you shall be able to understand:

- ✦ the concept of advance income tax
- ✦ computation of advance income tax
- ✦ payment of advance income tax
- ✦ consequence of payment of advance income tax
- ✦ consequence of failure to pay advance income tax
- ✦ payment of tax on the basis of return
- ✦ advance income tax matrix

Income Tax discipline lies on the basic principle that tax will be paid on income. So, it is customary that as an assessee, I have to earn first and only then I will be eligible to pay tax. So, income (difference between revenue and expenses) of an income year is assessed in the assessment year to calculate the taxable income on which tax is supposed to be paid. And that's why government needs to wait at least a year for taxing people. But, in almost every country of the world, law provides payment of tax within the year in installments. In taxation classic it is known as "PAYE" (pay as you earn). Otherwise, government will have to face a lot of problem to continue with its fiscal mechanism.

On the other hand, assessee will also face problems to pay huge amount of tax at a time after spending all of his income. Because, once income generates to the hand of the assessee, it becomes disposable and government has no mechanism to motivate the people to save for the government. Thus, due to advance payment of tax, government realizes time value of money and assessee realizes flexibility. The benefits of AIT are mostly covered in the chapter "Tax Deducted at Sources." For the deducting authority, it is tax collected or deducted at source, but for the assessee, from whose income such tax is deducted, it is advance payment of tax. Sections 64 to 73 of Income Tax Ordinance 1984 deal with advance payment of taxes.

15.1 WHO IS LIABLE TO PAY ADVANCE TAX?

Both old and new taxpayers may be liable to pay advance tax upon the fulfillment of the following conditions:

15.1.1 For old taxpayer (U/s - 64): If the total income, excluding capital gain and agricultural income, of the assessee for the latest assessed income in respect of which he has been assessed by way of regular assessment (U/s - 83), or has been provisionally assessed (U/s - 81), exceeds taka 400,000.

Explanation: Latest assessed income needs more clarification. Let us suppose that Mr. X wants to determine the latest assessed as a base of advance tax for the assessment year 2017-18. His study of various assessment done on previous years reveal that income of 2016-17 is not assessed yet, income of 2015-16 has been assessed on 31st march 2017 and income of 2014-15 has been reassessed on 28 May 2017 due to appeal. In such a case, latest assessed income for Mr. X will be that of 2014-15 for calculating advance tax.

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already paid taka 100,000 in two installments: one on 15th September and another one on 15th December. As on 10th of March, the assessment for the income year 2016-17 has been completed, the very definition of latest assessed income changes. Now, Mr. X has to reassess his advance tax liability as per the new assessment and he has to pay the remaining amount in two equal installments.

Total advance tax payable on newly assessed income (40% on 800,000)	Tk. 320,000
Advance tax already paid	<u>Tk. 100,000</u>
Remaining advance tax to be paid	Tk. 220,000
Advance tax to be paid in each installment (taka 220,000/2)	Tk. 110,000

Note: In this case, Mr. X needs to revise the amount of advance tax payable on the basis of the newly assessed income as assessment was completed before 15th of May and divided into two installments as still two installments were left.

SELF REVIEW 15 – 2

(a) In how many installments, AIT is paid? (b) What are the dates of AIT payment? (c) What is the base for calculation of AIT? (d) When the base for calculation of AIT is changed?

15.4 CONSEQUENCES OF PAYMENT OF ADVANCE TAX

Any sum, other than a penalty or interest, paid by or recovered from an assessee as advance tax, shall be treated as a payment of tax in respect of the income of the period, which would be the income year and shall be given credit for in the assessment of tax payable by the assessee. But, if the payment made is more or less than the actual amount, a question of interest arises from both sides as follows:

15.4.1 Interest payable by government: If the amount of advance tax paid is in excess of the amount of tax payable as determined on regular assessment, the Government shall pay simple interest at 10% per annum on such excess payment. Interest will be paid for the period from 1st July of the year of assessment to the date of regular assessment in respect of the income of that year or a period of two years from the said 1st July, whichever is shorter (U/s - 72). Government will only pay interest on excess amount if such excess generates for the payment of advance tax on the basis of latest assessed income not on the basis of the assessee's own estimate.

Illustration: Mr. X calculated advance tax for the income year 2016-17 as per the latest assessed income of taka 800,000. Regular assessment for the assessment year 2017-18 was completed on June 30, 2018 and income assessed amounts to taka 500,000. Applicable tax rate is 40%. Calculate interest payable by the government on excess amount.

Calculation of excess advance tax paid:

Amount of advance tax paid on the basis of latest assessed income (40% of taka 800,000)	Tk. 320,000
Advance tax as per regular assessment (40% of taka 500,000)	<u>Tk. 200,000</u>
Excess of advance tax paid	<u>Tk. 120,000</u>
Interest payable by the government (10% on taka 120,000)	Tk. 12,000

Note: Interest will be paid for a period of 1 year from 1st July 2016 to the date of regular assessment of 30th June 2017.

15.4.2 Interest payable by the assessee: Where, in any financial year, an assessee has paid advance tax on the basis of his own estimate and the advance tax so paid together with the tax deducted at source, if any, is less than 75% of the amount of tax payable by him as

determined on regular assessment, the assessee shall pay, in addition to the balance of tax payable by him, simple interest at 10% per annum on the amount by which the tax so paid and deducted falls short of the 75% of the assessed tax. Provided that the rate of interest shall be 50% higher if the return is not filed on or before the Tax Day. The period for calculation of simple interest shall be the period from the 1st July of the year in which the advance tax was paid to the date of regular assessment in respect of the income of that year or a period of two years from the said 1st July, whichever is shorter [U/s – 73(1) and (2)].

Illustration: For the assessment year 2017-18, a certain assessee has latest assessed income of taka 1,000,000. But, he wants to pay advance tax for the year on the basis of his own estimates that amounts to taka 800,000. Regular tax rate is 40%. During the year, tax deducted at source was taka 50,000. Regular assessment for the assessment year 2017-18 was completed on February 28, 2017 resulting taka 1,200,000 profit including profit of taka 80,000 from capital gain and taka 220,000 from agricultural income. Amount of excess or shortfall will be: Income eligible to apply advance tax as per regular assessment is taka 900,000 (Tk. 1,200,000 – Tk. 80,000 – Tk. 220,000), excluding capital gain and agricultural income.

Tax liability as per regular assessment (40% of taka 900,000)		Tk. 360,000
Tax paid in the form of tax deducted at sources	Tk. 50,000	
Advance tax (40% of taka 800,000 – taka 50,000)	<u>Tk. 270,000</u>	<u>Tk. 320,000</u>
Shortfall/Deficit		Tk. 40,000
75% test: The deficit or shortfall is required to be tested for charging interest.		
75% of tax liability as per regular assessment (75% of taka 360,000)		Tk. 270,000
Tax paid actually		<u>Tk. 320,000</u>
Shortfall/Deficit		nil

Consequence: In this case, the assessee is required to pay the shortfall of taka 40,000. There is no question of interest resulting from 75% test.

Notwithstanding anything contained in Section 73(1) & 73(2), where-

- tax is paid under section 74 (on the basis of return), or
- provisional assessment has made u/s 81 but regular assessment has not been made,

The simple interest shall be calculated in accordance with the following provisions-

- up to the date on which tax u/s 74 or as provisionally assessed, was paid;
- thereafter, such simple interest shall be calculated on the amount by which the tax as so paid falls short of the said 75% of the assessed tax. But, if the interest amount is reduced as a result of appeal, revision or reference, the excess interest paid, if any, shall be refunded together with the amount of tax that is refundable [Sec 73(3) & (4)]

15.5 CONSEQUENCES OF FAILURE TO PAY ADVANCE TAX:

Where, an assessee who is required to pay advance tax fails to pay any installment of such tax on the due date, he shall be deemed to be an assessee in default in respect of such installment (U/s - 69). Where, it is found that advance tax has not been paid accordingly, there shall be added to the tax as determined on the basis of regular assessment, simple interest thereon calculated at the rate of 10% and for the period from the 1st July of the year in which the advance tax was paid to the date of regular assessment in respect of the income of that year or a period of two years from the said 1st July, whichever is shorter.

15.6 PAYMENT OF TAX ON THE BASIS OF RETURN (U/S - 74):

Every person who is required to file a return under section 75, 77, 78, 89(2), 91(3) or 93(1) shall, on or before the date on which he files the return, pay the amount of the tax payable by him on the

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basis of such return, or as per provision of section 82C(4), whichever is higher, as reduced by the amount of any tax deducted from his income or paid by him in accordance with the relevant provisions. The amount such paid shall be deemed to have been paid towards the sum as may be determined to be payable by him after regular assessment. But, the person who fails to pay such tax on such date without reasonable cause shall be deemed to be an assessee in default.

15.7 ADVANCE TAX MATRIX:

The advance tax matrix is divided into two categories as per the overall discussion: one is for old taxpayer and another is for new taxpayer.

Old Tax Payer	Does latest assessed income exceed Tk. 400,000?	Yes	Advance tax Payable	Advance tax + TDS \geq 75% of tax determined	No simple interest payable
		No	Advance tax not Payable	Advance tax + TDS < 75% of tax determined	Simple interest payable
New Tax Payer	Does total assessed income exceed Tk. 400,000?	Yes	Advance tax Payable	Advance tax + TDS \geq 75% of tax due	No simple interest payable
		No	No advance tax due or simple interest payable	Advance tax + TDS < 75% of tax determined	Simple interest payable

Illustration 15 – 1:

Mr. Rahman has the following records of assessment for various years:

Income years	Date of assessment	Total assessed income
2011-12	21 st of February, 2013	Tk. 600,000
2012-13	10 th of March, 2016	1,500,000
2013-14	30 th of May, 2015	1,200,000
2014-15	15 th of February 2016	1,250,000
2015-16	Not yet assessed	N/A

Mr. Rahman, due to the changes of nature of income, wants to pay advance tax on the basis of his own estimate in lieu of latest assessed income. According to his own estimate, total taxable income amounts to Tk. 1,000,000 including Tk. 100,000 from capital gain. He has no income from agriculture. Assessment for the income year 2014-16 has been completed on 28.02.17 and his actual income amounts to taka 1,800,000 excluding capital gain and agricultural income. For the income year 2014-15, his tax deducted at source was Tk. 100,000 and he has paid further tax of Tk. 150,000 on 31.12.16 under section 74. Applicable tax rate for Mr. Rahman is 40%. Explain tax implications.

Solution 15 – 1:

Latest assessed income in this case would be taka 1,500,000 (IY 2012-13) if advance tax was based on that. But, Mr. Rahman paid advance tax on the basis of his own estimate. So, let us first compute the amount of advance tax paid: Estimated income of Mr. Rahman excluding capital gain Tk. 900,000; Amount of advance tax payable (40% of taka 900,000) Tk. 360,000; Advance Income Tax to be paid per installment (taka 360,000 ÷ 4) Tk. 90,000; Advance tax paid by Mr. Rahman on 15th September of assessment Tk. 180,000 (Because only two installments are made on 15th September and 15th December respectively).

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Let us calculate the amount of shortfall/deficit: Tax liability as per regular assessment (40% of Tk. 1,800,000) Tk. 720,000; Tax paid (TDS Tk. 100,000 + Advance Tk. 180,000) Tk. 280,000; Shortfall/deficit Tk. 440,000. As tax paid u/s 74 is Tk. 150,000, Remaining Liability will Tk. 290,000. So, Mr. Rahman would be required to pay Tk. 290,000 as additional tax. Now let us use 75% test to decide whether he would be charged interest on the shortfall or not: 75% of tax liability as per regular assessment (75% of Tk. 720,000) Tk. 540,000 and actual tax paid is Tk. 280,000, so, Revised Shortfall/Deficit Tk. 260,000. As tax paid u/s 74 is Tk. 150,000, Remaining Liability will be Tk. 110,000. So, Mr. Rahman would be charged interest as per the 75% test for the following time period: On Tk. 110,000; interest will be charged @ 10% for a period from 1st April 2016 to 28th February 2017 whereas on Tk. 150,000; interest will be charged at the same rate but for a period from 1st April 2015 to 31st December 2015. So, total interest payable by Mr. Rahman would be Tk. 21,333.33 $[(110,000 \times 10\% \times 11/12) + (150,000 \times 10\% \times 9/12)]$.

Thus, total amount due by Mr. Rahman to the government amounts to Tk. 303,083.33 (290,000 + 13,083.33).

Illustration 15 – 2:

Mr. Jalil computed his advance tax for the income year 2015 - 2016 based on latest regular assessment of Tk. 1,200,000 total income including Tk. 50,000 capital gain and Tk. 150,000 agricultural income. He has paid advance tax accordingly @ 25%. Regular assessment for assessment year 2016 – 2017 was completed on August 31, 2018 and total income assessed was Tk. 1,000,000 where the amount of capital gain and agricultural income were Tk. 75,000 and Tk. 125,000 respectively. Tax rate applicable is 25%. Show the relevant calculations for advance tax.

Solution 15 – 2:

Latest assessed income in this case is Tk. 1,000,000 (AY 2016 - 2017) and advance tax was paid based on that. So, let us first compute the amount of advance tax paid.

Estimated income of Mr. Jalil excluding capital gain and agricultural income	Tk. 800,000
Amount of advance tax payable (25% of taka 800,000)	Tk. 200,000
Advance income tax paid (25% of taka 1,000,000)	Tk. 250,000
Excess amount of tax paid by Mr. Jalil	Tk. 50,000

This excess amount of Tk. 50,000 may either be adjusted with the tax liability of the next assessment year or be refunded to him at his option in writing including interest. Mr. Jalil is eligible to receive interest on this excess amount:

Time duration and interest calculation: 2 years and 2 months [1st July of the assessment year 2016-17 to the date of regular assessment i.e. 1st July, 2016 to August 31, 2018] As per Section 72, 10% interest will be allowed on the excess amount of tax paid i.e. Tk. 50,000 for maximum two years. So, the amount of interest will be $[Tk. 50,000 \times 10\% \times 2] = Tk. 10,000$

Illustration 15 – 3:

Compute the advance tax payable by Mr. Hasan from the following estimated income submitted for the assessment year 2017-18 assuming that he was not previously assessed by way of regular assessment: Income from salary Tk. 320,000; Income from interest on Securities Tk. 50,000; Income from house property Tk. 150,000; Agricultural income Tk. 40,000; Income from business and profession Tk. 70,000; Capital gain Tk. 60,000 and Income from other sources Tk. 130,000. The amount of estimated TDS is Tk. 15,000. What are the consequences of using own estimate in advance tax calculation?

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Solution 15 – 3:

Total income excluding capital gain and agricultural income: Tk. 720,000

Calculation of Tax liability:

		Rate	Tk.
On the first	Tk. 250,000	0%	Nil
On the next	400,000	10%	40,000
On the next	<u>70,000</u>	15%	<u>10,500</u>
Total	Tk. 720,000		50,500
Less: Estimated TDS			<u>15,000</u>
Total advance tax payable			<u>35,500</u>

This Tk. 35,500 will be paid on a quarterly basis in equal installments @ Tk. 8,875 on 15th September, 2016; 15th December, 2016; 15th March, 2016 and 15th June 2017 respectively.

As we know, in advance tax payment the assessee has two options; pay advance tax on the basis of the latest assessment and if the tax paid falls short of required amount of advance tax payable, he would not be charged for shortfall. But in the case of shortfall of advance tax paid on the basis of own estimate, he would be charged interest at specified rate i.e. @ 10%.

KEY POINTS

1. Advance tax is payable by an old assessee on the basis of latest provisional or regular assessment but not under S. 93 (income escaping assessment). Income last assessed must be at least Tk. 400,000.
2. Advance tax is based on taxation classic known as "PAYE" (pay as you earn).
3. If the total income, excluding capital gain and agricultural income, of the assessee exceeds Tk. 400,000 he/she is suppose to pay advance income tax.
4. Computation of advance tax payable in case of new tax payers is based on the estimated total income applied at regular rates as reduced by the amount of tax required to be deducted or collected at source
5. Advance tax shall be payable in four equal installments on the 15th day of September, December, March and June of the financial year for which the tax is Payable.
6. If the amount of advance tax paid is in excess of the amount of tax payable as determined on regular assessment, the Government shall pay simple interest at 10% per annum on such excess payment.
7. If an assessee has paid advance tax but paid (including TDS) less than 75% of the amount of tax payable by him as determined on regular assessment the assessee shall pay simple interest at 10% per annum on the amount by which the tax so paid and deducted falls short of the 75% of the assessed tax.
8. If an assessee fails to pay any installment of advance tax on the due date, he shall be deemed to be an assessee in default in respect of such installment.
9. Where, it is found that advance tax has not been paid accordingly simple interest @ 10% will be added with tax liability for the period from the 1st July of the year in which the advance tax was paid to the date of regular assessment in respect of the income of that year or a period of two years from the said 1st July, whichever is shorter.
10. Every person who is required to file a return on regular basis shall pay advance tax.

Multiple choice questions:

1. To determine advance tax latest assessed income excludes –
 - (a) Income from Salary
 - (b) Interest on Securities
 - (c) Income from House Property
 - (d) Agricultural Income
2. When the new taxpayer is required to send his estimate of income and advance tax payable to DCT? –
 - (a) On 15th June
 - (b) On 15th May
 - (c) Before 15th June
 - (d) Before 15th May
3. Advance taxes are paid as per the following schedule –
 - (a) 15th day of September, December, March and June
 - (b) 15th day of August, November, February and May
 - (c) 15th day of July, October, January and April
 - (d) 15th day of June, October and February
4. When interest is payable by the assessee on the shortfall? –
 - (a) When total of advance tax and TDS becomes less than 75% of tax payable on regular assessment.
 - (b) When total of advance tax and TDS becomes more than 75% of tax payable on regular assessment.
 - (c) When advance tax already paid becomes less than 75% of tax payable on regular assessment.
 - (d) When advance tax already paid becomes more than 75% of tax payable on regular assessment.
5. In case of new taxpayer, the computation of advance tax payable is based on –
 - (a) Latest assessed income
 - (b) As per return
 - (c) Estimated income
 - (d) As per assessment
6. What is the minimum amount that must exceed to pay advance tax –
 - (a) Tk. 3,00,000
 - (b) Tk. 4,00,000
 - (c) Tk. 1,50,000
 - (d) Tk. 2,25,000
7. Advance tax is paid in how many equal installments –
 - (a) 4
 - (b) 6
 - (c) 8
 - (d) 10
8. When the assessee fails to pay advance tax or pay less than 75% of tax liability a simple interest will charge at the rate of –
 - (a) Nil
 - (b) 5%
 - (c) 7.5%
 - (d) 10%

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9. When the assessee paid advance tax more than the amount of his/her tax liability, government will pay a simple interest at the rate of –
 - (a) Nil
 - (b) 5%
 - (c) 7.5%
 - (d) 10%
10. 'PAYE' refers to –
 - (a) Pay advance if you eligible
 - (b) Pay as you earn
 - (c) Pay and you earn
 - (d) None of the above

Identify the following statements as True (T) or False (F):

1. Both old and new taxpayers may be eligible for advance tax.
2. TDS in every case is considered as advance payment of tax.
3. If assessment for a year is completed before 15th of June, it will be considered as latest assessed income.
4. If the shortfall originates due to the payment of advance tax as per latest assessed income, there will be no interest.
5. If advance tax is paid by an old taxpayer on the basis of estimated income, he will not pay any interest on shortfall.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 15 – 1:** What do you mean by advance payment of taxes?
- Question 15 – 2:** "Due to advance payment of tax, government realizes time value of money and assessee realizes flexibility" – do you agree? Explain.
- Question 15 – 3:** "Everybody who generates income shall pay advance tax" – do you agree? Explain.
- Question 15 – 4:** How do you compute advance tax for both old and new taxpayers?
- Question 15 – 5:** What is the procedure of paying advance tax?
- Question 15 – 6:** What are the consequences of non-payment, excess payment and deficit payment of advance tax?
- Question 15 – 7:** What do you understand by payment of tax as per return under section 74?
- Question 15 – 8:** Write short note on:
- (a) PAYE
 - (b) Advance tax for new tax payer
 - (c) Consequence of failure to pay advance tax
 - (d) Advance tax matrix

Problem 15 – 1:

The latest assessed income of Mr. Piplu amounts to taka 500,000 (for the income year 2014-15), which is considered as a base of payment of advance tax in the assessment year 2016-17. Meanwhile, the assessment for the income year 2015-16 has been completed in 15th May 2016 and taxable income for the year amounts to taka 800,000. Now, what should Mr. X do with regard to advance tax? Suppose applicable income tax rate is 40%.

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Problem 15 – 2:

Mr. Mia calculated advance tax for the income year 2014-15 as per the latest assessed income of taka 1,000,000. Regular assessment for the assessment year 2015-16 was completed on June 30, 2017 and profit assessed amounts to taka 700,000. Applicable tax rate is 40%.

Required: Calculate interest payable by the government on excess amount.

Problem 15 – 3:

For the assessment year 2016-17, a certain assessee has latest assessed income of taka 1,200,000. But, he wants to pay advance tax for the year on the basis of his own estimates that amounts to taka 1,000,000. Regular tax rate is 40%.

During the year, tax deducted at source was taka 90,000. Regular assessment for the assessment year 2016-17 was completed on February 28, 2017 resulting taxable income of taka 1,200,000 excluding income from capital gain and agricultural income.

Required: Calculate the amount of excess or shortfall and explain the consequences for the same.

Problem 15 – 4:

Mrs. Krishna has the following records of assessment for various years:

Income years	Date of assessment	Total assessed income
2011-12	18 th March, 2013	Taka 1,000,000
2012-13	25 th February, 2016	Taka 1,200,000
2013-14	28 th April, 2015	Taka 900,000
2014-15	20 th May, 2016	Taka 1,150,000
2015-16	Not yet assessed	N/A

Mrs. Krishna, due to the changes of nature of income, wants to pay advance tax on the basis of her own estimate in lieu of latest assessed income. According to her own estimate, total taxable income amounts to taka 1,000,000 excluding capital gain and agricultural income.

Assessment for the income year 2015-16 has been completed on 16th March 2017 and her actual income amounts to taka 1,900,000 including capital gain of taka 100,000 and agricultural income of taka 80,000. For the income year 2015-16, her tax deducted at source was taka 110,000 and she has paid further tax of taka 120,000 on 31st December 2016 U/s – 74. Applicable tax rate for Mrs. Krishna is 40%.

Required: Explain tax implications.

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Answers:

Multiple choice questions		True/False
1. d	6. b	1. T
2. c	7. a	2. T
3. a	8. d	3. F
4. a	9. d	4. T
5. c	10. b	5. F

Self review 15 – 1:

- If the latest assessed income of the assessee excluding capital gain and agricultural income exceeds taka 400,000; and he has been assessed by way of either regular (U/s - 83) or provisional (U/s - 81); he is eligible to pay AIT.
- If the total income of the assessee excluding capital gain and agricultural income for the income year of the following assessment year is likely to exceed taka 400,000; he is eligible to pay AIT.

Self review 15 – 2:

- In 4 equal installments.
- 15th day of September, December, March and June of the financial year for which the tax is Payable.
- Last assessed income
- If before the 15th May of the year, the assessment of the following year has been completed, then the assessee has to re-compute the amount of AIT on the basis of that income and it should be paid equally in each installment(s) left.

CHAPTER - 16

SET OFF AND CARRY FORWARD OF LOSSES

LEARNING OBJECTIVES

After studying Chapter 16, you shall be able to understand:

- ⊕ the concept of set off losses
- ⊕ the concept of carry forward of losses
- ⊕ set off provisions after carry forward of losses
- ⊕ conditions and limitations of carry forward of loss
- ⊕ the concept of unabsorbed depreciation
- ⊕ difference between business loss and unabsorbed depreciation

16.1 INTRODUCTION

Income tax is a tax which is charged on the total income of an assessee. Therefore, headwise income has to be aggregated to determine the total income. It may so happen that the net result of certain heads of income may be loss. It would now be pertinent question whether the loss in one head may be aggregated with the income of other heads. The extent to which it may be adjusted against the income of other heads and what are the consequences, if it could not be fully adjusted in an income year are issues connected with this. The Income Tax Ordinance, 1984 contains certain provisions (Section 37 to Section 42) regarding the set off and carry forward of such kind of losses in a particular manner.

16.2 SET OFF OF LOSSES

Set off of losses means adjustment of losses from some heads with income of some other head(s) to get the net taxable income. According to Section 37 of the ITO, 1984, where, in respect of any assessment year, the net result of computation of income under any head is a loss, the assessee shall, subject to some provisions of the Ordinance, be entitled to set off the loss against his income, if any, assessable for that assessment year under any other head.

Illustration: Mr. Anwar has income from house property Tk. 315,000 and losses from Agriculture Tk. 45,000. Now to calculate taxable income, losses from agriculture are allowed to adjust with the income from house property. So, taxable income for Mr. Anwar will be Tk. 270,000 (315,000 – 45,000). Adjustment of agricultural losses with income from house property is set off of losses.

16.2.1 Conditions, procedures and limitations of setting off losses in respect of an Individual Assessee:

An individual assessee is entitled to set off the losses of a head against the income under other heads subject to some conditions. The conditions, procedures and limitations of setting off losses in respect of an individual assessee are as follows:

1. The loss of any sources under a particular head can be set off against the other sources of income, if any, under the same head. For example, Loss of cloth business can be set off against the income from egg business, as both the sources are recorded under the same head i.e. "Income from Business and Profession".
2. No set off of losses is allowed for any loss computed under any source, income of which is exempted from tax.

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3. Any loss in respect of any income from any head shall not be so set off against any income from manufacturing of cigarette, bidi, zarda, chewing tobacco, gul or any other smokeless tobacco or tobacco products.
4. If the loss of a head cannot be fully set off against the income of other sources under the same head, it can be set off against the income of other heads subject to some conditions in an assessment year.
5. Loss of any speculation business can only be set off against income from some other speculation businesses and not against income from any other heads.
6. Any loss under the head "Capital gain" i.e. Capital loss can only be set off against any other income under the same head only.
7. For the purpose of set off of losses the DCT shall, in computing any loss, deduct any amount received in cash as subsidy from the government.
8. Any loss under the head "Income from Business or Profession" cannot be set off against any income from house property.
9. In case of loss sustained by a firm under any head can be set off only against the income of the firm under any other head and not against the income of any of the partners of the firm [Section 42(3)(a)]
10. Income or loss computed in accordance with section 82C(d) where minimum tax is applicable, shall not be set off with loss or income, respectively, computed for any regular source.

The summary of the provisions of set off can be depicted as follows:

Losses under the heads	Set off is possible against income
(a) Salaries	generally loss is not generated
(b) Interest on securities	from any head
(c) Income from house property	from any head
(d) Agricultural income	from any head except "Capital Gain"
(e) Income from business or profession	from any head except from house property and capital gain; but if the loss is from speculation business, it can only be set off against income of any other speculation businesses.
(f) Capital gain	under the head "Capital gain"
(g) Income from other sources	generally loss is not generated

16.3 CARRY FORWARD OF LOSSES

When losses under a head is not possible to set off wholly against same year's income from same or some other allowable head(s), it is allowed to transfer such unadjusted amount of losses to next year(s) for set off. This types of transfer of losses for set off against next year's income is known as carry forward of losses.

Illustration: Mr. Anwar has income from house property Tk. 315,000 and losses from agriculture Tk. 345,000. To calculate taxable income, losses from the agriculture are allowed to adjust with the income from house property. So, taxable income results a loss of Tk. 30,000 (315,000 – 345,000). Mr. Anwar is allowed to transfer such Tk. 30,000 unadjusted loss to next year. In the next year he can set off this Tk. 30,000 loss with income from agriculture. Here such transfer of loss is known as carry forward of losses.

As per the provisions of the ITO, 1984, the losses from the following heads can be carried forwarded for the subsequent six years:

1. Losses under the head "Income from Business and Profession" [Section 38];
2. Loss in Speculation Business [Section 39];

3. Loss under the head “Capital Gain” [Section 40]; and
4. Loss under the head “Agricultural income” [Section 41].

As per the provisions of the ITO, 1984, carry forward is not possible for any loss computed under the head ‘Income from Securities’ and ‘Income from House Property’. So a detail discussion about carry forward and set off of losses after carry forward is given below:

16.3.1 Conditions, procedures and limitations of Carrying forward of losses in respect of an Individual Assessee:

An individual assessee is entitled to carry forward some of his losses up to a certain time period, if it is not possible to set the losses off wholly in a particular assessment year subject to some conditions. The conditions, procedures and limitations of carrying forward of losses in respect of an individual assessee are as follows:

1. Losses generated under the head “Income from Business and Profession”, “Speculation Business”, Capital Gain” and “Agricultural Income” can be carry forwarded up to a period of six years [Section 38 – 41].
2. In any assessment year, if the business losses (excluding losses of speculation businesses) have not been wholly set off, it can be carried forwarded to set off from the income of the same sources in subsequent six years [Section 38].
3. The loss from any business or profession can be carried forwarded only if such business or profession is continued to be carried on by the assessee in the subsequent income years [Section 38(a)].
4. Losses from speculation business can only be carried forwarded to set it off only against income from speculation businesses in subsequent six years [Section 39].
5. Capital losses can be carried forwarded to set it off against the incomes under the head “Capital gain” in subsequent six years. But the carried forwarded amount will only be the excess of Tk. 5,000 [Section 40].
6. Losses under the head “Agricultural income” can be carried forwarded for a period of six years and set off against agricultural income in subsequent six years [Section 41].
7. A successor-in-Business otherwise than by inheritance cannot claim to carry forward the loss incurred by his predecessor-in-Business [Section 42(4)]

16.4 SET OFF AND CARRY FORWARD OF BUSINESS LOSSES [SECTION 38]

According to Section 38 of the ITO, 1984, where for any assessment year the net result of income under the head “Income from business or profession” is a loss to the assessee (except losses from speculation business) and such loss has not been wholly set off against income from other sources (except income from capital gain and income from house property) shall be carried forward to the next following assessment year, and –

- (a) it shall be set off against the income of the same business (if any), provided that the business will continue in the said income year.
- (b) if the loss cannot be wholly so set off, the amount of the loss not so set off shall be carried forward to the next assessment year and so on for not more than six successive assessment years.

Example: Mr. Peter furnishes his income under different heads for the income years 2015 – 2016 and 2016 – 2017 as: Salary income Tk. 105,000 and 105,000; income from rice business Tk. (125,000) and 70,000; income from capital gain Tk. 15,000 during the year 2015 - 2016. In the income year 2015 – 2016, Mr. Peter set off his rice business loss with salary income but even after that he has loss of Tk. 20,000.

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He can carry forward this figure to next year to set off only against income from rice business. In the same year (2015 – 2016), he got capital gain but he cannot set off any losses computed under the head business or profession with income from capital gain. On the other hand in the next year (2016 – 2017), he showed only Tk. 50,000 income from rice business after set off of previous year's loss which was carried forward to this year. But if in the year 2016 – 2017 no income from rice business was reported, he can't set off Tk. 20,000 loss with any income computed under any other heads in this year.

2015 – 2016		2016 – 2017	
Income from salary	Tk. 105,000	Income from salary	Tk. 105,000
Income from rice business	(125,000)	Income from rice business	
	(20,000)	[70,000 – set off of previous	
Carry forward	20,000	year's loss Tk. 20,000]	50,000
Income from Capital Gain	15,000	Total	<u>155,000</u>
Total	<u>15,000</u>		

SELF REVIEW 16 – 1

Income from Salary for Mr. Habib for the year ended 30th June, 2017 is Tk. 440,000. In the said year he has a loss of Tk. 25,000 from his fish business. In the last year he also had some loss from fish business and he carried forward Tk. 7,000 to this year. But in the current year his garments business generated a profit of Tk. 40,000. Calculate taxable income for Mr. Habib for the income year ended 30th June, 2017 and also state how much loss he should carry forward to next year.

16.5 SET OFF AND CARRY FORWARD OF LOSS IN SPECULATION BUSINESS

According to Section 39 of the ITO, 1984, where, for any assessment year, the result of any speculation business carried on by the assessee is a loss, it shall be set off only against the income (if any), from any other speculation business carried on by him and assessable for that assessment year. But when such loss is not wholly so set off, the assessee can carry forward that portion of loss not so set off, to the next following assessment year and –

- (a) it shall be set off against the income (if any), from any speculation business carried on by him and assessable for that assessment year; and
- (b) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the next assessment year and so on for not more than six successive assessment years.

Example: Income of Mr. Peter for the income year 2015 – 2016 and 2016 - 2017 includes: Salary income Tk. 105,000 & Tk. 105,000; income from speculation business Tk. 10,000 & Tk. 70,000. Besides in 2015 – 2016, he had a loss from another speculation business Tk. 30,000 and capital gain Tk. 15,000. In the income year 2015 – 2016 Mr. Peter can set off his speculation business loss only by Tk. 10,000 though he has income from other speculation business. He is allowed to carry forward unadjusted speculation business loss to next year. Thus in 16 – 17, he showed only Tk. 50,000 income from speculation business.

Sources of income	2015 – 2016	2016 – 2017
Income from salary	105,000	105,000
Losses from speculation business	(30,000)	-
Income from speculation business	10,000	70,000
Less: set off previous year's loss	-	20,000
	(20,000)	50,000
Carry forward	20,000	-
Capital gain	15,000	
Total income	<u>120,000</u>	<u>155,000</u>

According to Section 2(61) of the ITO, 1984 "speculation-business" means business in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scripts, but does not include business in which –

- (a) a contract in respect of raw materials or merchandise is entered into by a person in the course of his manufacturing or mercantile business to guard against loss through future price fluctuations for the purpose of fulfilling his other contracts for the actual delivery of the goods to be manufactured or the merchandise to be sold by him;
- (b) a contract of stocks and shares is entered into by a dealer or investor therein to guard against loss in his holdings of stocks and share through price fluctuations; and
- (c) a contract is entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member;

SELF REVIEW 16 – 2

Mr. Hannan states his income in 2015 – 2016 and 2016 – 2017 as: Income from salary Tk. 200,000 and Tk. 200,000; losses from speculation business – 1 Tk. 35,000 and 15,000; income from speculation business – 2 Tk. 20,000 and Tk. 44,000. In 2014 – 2015 his capital gain was Tk. 22,000. Calculate taxable income for Mr. Hannan for both the income years.

16.6 SET OFF AND CARRY FORWARD OF LOSS FROM 'CAPITAL GAINS'

Where, in respect of any assessment year, the net result from any source under the head "Capital gains" is a loss, it shall be set off only against income from any other source falling under the same head and assessable for that year. But when such loss is not wholly so set off, the assessee can carry forward that portion of loss not so set off, to the next following assessment year and –

- (a) it shall be set off against income (if any), of the assessee under the same head and assessable for that year; and
- (b) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the next assessment year and so on for not more than six successive assessment years.

It is to be noted here that, where, in respect of any assessment year, the loss computed under the head "Capital gains" does not exceed Tk. 5,000 it shall not be carried forward and where it exceeds Tk. 5,000 only so much of such loss shall be carried forward as exceeds Tk. 5,000 [Sec 40(3)].

Example: Mr. Peter furnishes his income under different heads for the income year 2015 – 2016 and 2016 – 2017 as: Income from rice business Tk. 25,000 and Tk. 105,000; Income from agriculture Tk. (35,000) and Tk. 5,000 and Income from Capital Gain Tk. 15,000 and Tk. (12,000). Taxable income of Mr. Peter for the years should be as follows:

Sources of income	2015 – 2016		2016 – 2017	
Income from rice business		25,000		105,000
Income from agriculture	(35,000)		5,000	
Less: set off previous year's loss	-		5,000	
Carry forward (35,000 – 25,000)	10,000	(25,000)		
		-		
Capital gain		15,000	(12,000)	
Carry forward 7,000 + 5,000 non allowable loss		-	12,000	
Total		15,000		105,000

SELF REVIEW 16 – 3

Mr. Hamid's income from business and profession is Tk. 450,000 and capital gain is Tk. (18,000). Identify how much loss Mr. Hamid can set off and can carry forward to next year? If Mr. Hamid has another capital gain of Tk. 14,000 in the same year what will be your answer?

16.7 SET OFF AND CARRY FORWARD OF LOSS UNDER THE HEAD 'AGRICULTURAL INCOME' [SECTION 41]:

According to Section 41 of the ITO, 1984, where, for any assessment year, the net result of income under the head "Agricultural income" is a loss to the assessee, and such loss has not been wholly set off against income from other sources (except income from capital gain) shall be carried forward to the next following assessment year, and –

- (a) it shall be set off against agricultural income (if any), of the assessee assessable for that assessment year; and
- (b) if the loss cannot be wholly so set off the amount not so set off shall be carried forward to the next assessment year and so on for not more than six successive assessment years.

16.8 CARRY FORWARD OF LOSSES OF PARTNERSHIP FIRM [SECTION 42]

The provisions relating to set off of losses and carry forward of losses regarding a firm are:

1. Where the assessee is a firm, the loss sustained by the firm under any head of income shall be set off only against the income of the firm under any other head(s) and not against the income of any of the partners of the firm [Section – 42(3a)].
2. Where the assessee is a partner of the firm, he shall not be entitled to carry forward and set off any loss sustained by the firm against his own income [Section – 42(3b)]
3. In the case of a firm where any change in the constitution has occurred-
 - (a) the firm shall not be entitled to set off any retired or deceased partner's share of loss [Section – 42(5a)]; and
 - (b) a partner of the firm shall not be entitled to the benefit of any portion of the said loss as is not apportioned to him [Section – 42(5b)].

16.9 CARRY FORWARD OF LOSSES OF A JOINT STOCK COMPANY

If the company has more than one business, the loss of one business can be set off against the income from other businesses. If the loss cannot be wholly set off in an assessment year or if the company does not have other businesses, the loss can be carried forwarded to the next assessment year and so on for not more than six successive assessment years. In this regard the company must be a resident assessee. Moreover, there is no binding that in case of a company having more than one businesses, all the business should be carried on in a single place or should be under the territory of the same DCT. If any Bangladeshi company has business in abroad, the loss from local source can be set off against the income from abroad and vice versa. But in case of amalgamation or absorption between companies, the losses of the old companies cannot be set off or carry forwarded to set off from the income of the new company.

16.10 CONDITIONS AND LIMITATIONS OF CARRY FORWARD OF LOSS –

The provisions relating to set off of losses and carry forward of losses that has been discussed in the above section of this chapter shall have effect subject to some conditions and limitations.

1. Where the assessee is a firm, the loss sustained by the firm under any head of income shall be set off only against the income of the firm under any other head(s) and not against the income of any of the partners of the firm [Section – 42(3a)].
2. Where the assessee is a partner of the firm, he shall not be entitled to carry forward and set off any loss sustained by the firm against his own income [Section – 42(3b)].
3. No person shall be entitled to set off loss from business or profession against his income under any other head except he/she is the person who was incurring the loss or succeeded the business by inheritance [Section – 42(4)].
4. In the case of a firm in the constitution of which a change has occurred –
 - (a) the firm shall not be entitled to set off any retired or deceased partner's share of loss [Section – 42(5a)]; and
 - (b) a partner of the firm shall not be entitled to the benefit of any portion of the said loss as is not apportioned to him [Section – 42(5b)].
5. Where after charging allowance for depreciation results of any business becomes a loss, no such charge is allowed but can charge so much allowance that will not show any loss for the business. In such a situation any allowance that is not possible to charge against profit of a business can be carried forward to next year. The allowance or part of the allowance to which effect has not been given shall be added to the amount of the allowance for depreciation for the following year or if there is no such allowance for that year the carry forwarded portion will consider as allowance for that year and so on for succeeding years [Section – 42(6)].
6. Where depreciation allowance is also to be carried forward, effect shall first be given to the provisions of carry forward of business losses and carry forward of loss in speculation business [Section – 42(7)].

16.11 SET OFF AND CARRY FORWARD OF UNABSORBED DEPRECIATION

According to Section 42(6) of the ITO, 1984, it is not possible to charge allowable depreciation allowance against income if it results loss for a business or profession. But such allowance can be charged against income until the result is not a loss. That portion of allowable depreciation which is not possible to charge against income is known as unabsorbed depreciation. Followings are the key points that explain features of unabsorbed depreciation:

1. Because of allowable depreciation allowance one cannot show negative profit in his/her business or profession.
2. When there is a profit before depreciation, one can only charge that much of allowable depreciation allowance against such profit which does not results a loss for the business or profession.
3. Unabsorbed depreciation can be carried forward for unlimited time period.
4. After carry forward effects shall first be given for business losses and losses from speculation business before giving effect of unabsorbed depreciation.

Example: Consider the following situations for three different companies relating to depreciation allowance:

	Company		
	X	Y	Z
Profit before depreciation	Tk. (30,000)	Tk. 40,000	Tk. 50,000
Allowance for depreciation	45,000	45,000	45,000
Profit after depreciation	(75,000)	(5,000)	5,000

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Here, X Company is not allowed to charge depreciation allowance which results an increase in the loss figure. But it is allowed to show this depreciation allowance in full in the next year (if enough profit is available) in addition to depreciation allowance applicable for next year. Y Company can show only Tk. 40,000 as depreciation allowance because profit before depreciation for Y Company is Tk. 40,000. But Y Company can show unabsorbed depreciation of Tk. 5,000 in next year (if enough profit is available) in addition to depreciation allowance applicable for next year. Z Company can charge all depreciation allowance because it will not result a loss for the company. So the ultimate result will be as follows:

	X	Y	Z
Profit before depreciation	Tk. (30,000)	Tk. 40,000	Tk. 50,000
Allowance for depreciation	-	40,000	45,000
Tax payable income	(30,000)	-	5,000
Unabsorbed depreciation carried forward	45,000	5,000	-

16.12 DIFFERENCES BETWEEN BUSINESS LOSS AND UNABSORBED DEPRECIATION

Loss can be a business loss i.e. trading, manufacturing or agricultural and because of allowable depreciation on fixed assets used in business, profession or agriculture. In broader sense, loss includes depreciation too where a separation thereof does not make any business sense, but for taxation purpose, the distinction is important because of the following:

- 1) Unabsorbed depreciation can be carried forward without any time limit where as other loss can be carried forward for six years.
- 2) The unabsorbed depreciation as such forming a part of subsequent year's income can be set off against any income under any head in the same year (other than capital gain and speculative profit).
- 3) The unabsorbed depreciation is deemed part of the depreciation allowance for a subsequent year and will enter into the income of such subsequent year. Carried forward loss does not enter into such computation, and is deducted from the subsequent year's income.

Illustration 16 – 1:

Based on the particulars for Mr. Azad relating to income year 16–17, calculate his taxable income considering provisions relating to set off and carry forward of losses: Income from – Agriculture Tk. (30,000); speculation business Tk. 15,000 & other business Tk. 10,000; capital gain Tk. 10,000.

Solution 16 – 1:

Mr. Azad		
Income year: 2016 – 2017; Assessment year: 2017 – 2018		
	Tk.	Tk.
Income from Agriculture		(30,000)
Income from business and profession:		
From speculation business	15,000	
Others	10,000	25,000
		(5,000)
Carry forward of agricultural loss		5,000
		-
Income from capital gain		10,000
Total income		<u>10,000</u>

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Illustration 16 – 2:

Calculate taxable income for Mr. Alam relating to the income year 2016 – 2017 considering: Income from – tax free government securities Tk. 10,000; Agriculture Tk. 55,000; speculation business Tk. 150,000 and other business Tk. (80,000); and Capital Gain Tk. 35,000

Solution 16 – 2:

Mr. Alam		
Income year: 2016 – 2017; Assessment year: 2017 – 2018		
	Tk.	Tk.
Income from securities	10,000	
Less: exemption (full)	10,000	-
Income from Agriculture		55,000
Income from Business or Profession:		
From speculation business	150,000	
Others	(80,000)	70,000
Income from Capital Gain		35,000
Total income		160,000

Illustration 16 – 3:

Calculate taxable income for the income year 2016 – 2017 of Mr. Rafi considering income from: salary Tk. 200,000; securities (net) Tk. 10,000; house property Tk. 45,000; agriculture Tk. (175,000); speculation business Tk. (20,000); other business Tk. (90,000); capital gain Tk. (12,000) and other sources Tk. 80,000.

Solution 16 – 3:

Mr. Rafi		
Income year: 2016 – 2017; Assessment year: 2017 – 2018		
Income from Salary		Tk. 200,000
Income from Securities (net)		10,000
Income from House Property		45,000
Income from Agriculture		(175,000)
Income from Business or Profession: From speculation business	(20,000)	
Carry forward	(20,000)	-
Other business or profession income		(90,000)
Income from Capital Gain	(12,000)	
Carry forward 7,000 + 5,000 non allowable loss	12,000	-
Income from Other Sources		80,000
Total income		70,000

Illustration 16 – 4:

Compute taxable income for the income year 2015 – 2016 and 2016 – 2017 of Mr. Mahid considering his income from: salary Tk. 160,000 (both the years); approved securities Tk. 60,000 (both the years); agriculture Tk. (80,000) for 15-16 and Tk. 120,000 for 16-17; electronics business Tk. (100,000) for 15-16 and Tk. 50,000 for 16-17; garments business Tk. (50,000) for 15-16 and Tk. 15,000 for 16-17; speculation business Tk. 10,000 for 15-16 and Tk. (30,000) for 16-17; capital gain Tk. (12,000) for 15- 16 and Tk. 10,000 for 16-17. Mr. Mahid decided to carry forward any losses from garments business (if required) to next year.

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Solution 16 – 4:

Mr. Mahid
Assessment year: 2017 – 2018

Income Year:	2015 – 2016		2016 – 2017		
	Tk.	Tk.	Tk.	Tk.	Tk.
Income from salary		160,000			160,000
Income from approved securities	60,000			60,000	
Less: exemption	<u>20,000</u>	40,000	<u>20,000</u>		40,000
Income from agriculture		(80,000)			120,000
Income from business or profession:					
Income from electronics business	(100,000)			50,000	
Income from garments business	(50,000)		15,000		
Less: set off of previous year's loss	-		<u>15,000</u>	-	
Income from speculation business	10,000		(30,000)		
Carry forward of speculation losses		<u>(140,000)</u>	<u>30,000</u>	-	50,000
		(20,000)			370,000
Carry forward [losses from garments business]		<u>20,000</u>			-
Income from Capital Gain	(12,000)			10,000	
Less: set off of previous year's loss	-			7,000	
Carry forward 7,000 + 5,000 non allowable loss	<u>12,000</u>	-	-	-	3,000
Total income		Nil			373,000

Illustration 16 – 5:

Mr. Sojib has the following income in different income year. Calculate his taxable income after considering provisions relating to set off and carry forward of losses.

	2014 – 2015	2015 – 2016	2016 – 2017
Income from Securities	10,000	10,000	10,000
Income from House Property	100,000	110,000	120,000
Income from Agriculture	(120,000)	(20,000)	40,000
Income from Capital gain	25,000	-	-

Solution 16 – 5:

Mr. Sojib
Income year: 2016 – 2017; Assessment year: 2017 – 2018

	14-15	15-16	16-17
Income from Securities	10,000	10,000	10,000
Income from House Property	100,000	110,000	120,000
Income available to set off losses from agriculture	110,000	120,000	130,000
Income from Agriculture	(120,000)	(20,000)	40,000
Set off: Losses carried forward from 2014 – 2015			<u>(10,000)</u> 30,000
Income available after set off	(10,000)	100,000	160,000
Carry forward [losses from agriculture]	<u>10,000</u>	10,000	-
Income after set off & carry forward of losses	-	100,000	160,000
Income from Capital gain	25,000	-	-
Total	25,000	100,000	160,000

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Illustration 16 – 6:

Mr. Faisal states sources of income and information for different income year as:

2014 – 2015: Income from – house property Tk. 120,000; agriculture Tk. 20,000; electronic business Tk. 10,000; garments business Tk. (80,000); speculation business Tk. 40,000; and Capital gain Tk. (18,000). **2015 – 2016:** Income from – house property Tk. 120,000; agriculture Tk. (100,000); electronic business Tk. 20,000; garments business Tk. (50,000); speculation business Tk. (30,000); and Capital gain Tk. 8,000. **2016 – 2017:** Income from – house property Tk. 120,000; agriculture Tk. 50,000; electronic business Tk. (10,000); garments business Tk. 40,000; speculation business Tk. 100,000; and Capital gain Tk. 18,000. Mr. Faisal likes to carry forward (if required) any losses arising from garments business to next year. He carried forward a loss of Tk. 25,000 from speculation business from 2012 – 13 income year to 2013 – 14 income year. Calculate taxable income for Mr. Faisal.

Solution 16 – 6:

Mr. Faisal			
Income year: 2014 – 2015			
Assessment year: 2015 – 2016			
	Tk.	Tk.	Tk.
Income from house property			120,000
Income from agriculture			20,000
Income from business or profession:			
Income from electronics business		10,000	
Income from garments business		(80,000)	
Income from speculation business	40,000		
Less: set off pervious loss	25,000	15,000	
		(55,000)	
Less: carry forward		35,000	(20,000)
Income from Capital Gain		18,000	
Carry forward 13,000 + 5,000 non allowable loss		18,000	-
Total income			<u>120,000</u>

Mr. Faisal			
Income year: 2015 – 2016; Assessment year: 2016 – 2017			
	Tk.	Tk.	Tk.
Income from house property			120,000
Income from agriculture			(100,000)
Income from business or profession:			
Income from electronics business		20,000	
Income from garments business		(50,000)	
Income from speculation business	(30,000)		
Less: carry forward	(30,000)	-	
		(30,000)	
Less: carry forward		30,000	-
Income from Capital Gain		8,000	
Less: set off previous loss		8,000	-
Total income			<u>20,000</u>

Chapter – 16: Set Off and Carry Forward of Losses

Mr. Faisal

Income year: 2016 – 2017; Assessment year: 2017– 2018

	Tk.	Tk.	Tk.
Income from house property			120,000
Income from agriculture			50,000
Income from business or profession:			
Income from electronics business		(10,000)	
Income from garments business	40,000		
set off previous loss	(65,000)		
	(25,000)		
Carry forward of loss	25,000	-	
Income from speculation business	100,000		
Less: set off previous loss	(30,000)	70,000	60,000
Income from Capital Gain		18,000	
Less: set off previous loss		5,000	13,000
Total income			243,000

Illustration 16 – 7:

Calculate taxable income of .Mr. Arif for the income year 2016 – 2017 considering his income from: Salary Tk. 360,000; Agriculture Tk. (35,000); Revenue from: Garments Business Tk. 40,000, Electronics Business Tk. 30,000, Potato Business Tk. 25,000, Speculative Business Tk. (8,000). Mr. Arif is the owner of a house property that has an annual value of Tk. 180,000 and was let out for residential purpose and remains vacant for four months period during the year. Admissible expense of the house is Tk. 30,000 except repair and maintenance. Four month's rent become uncollectible during the year.

Other information: (1) Mr. Arif received subsidy of Tk. 15,000 from government against losses from agriculture. (2) Expenses relating to the businesses include depreciation and other expenses. For Garments it was Tk. 5,000 and 41,000; for electronics it was Tk. 2,000 and 20,000 respectively; and for potato business there was no depreciation but other expenses was Tk. 15,000. (3) Unabsorbed depreciation carried forward from previous years total Tk. 2,000 (electronics business). (4) Previous year's losses carried forward to this year includes –

Garments Business	Tk. 3,000	Year of origin: 2014 – 2015
Electronics Business	4,500	Year of origin: 2015 – 2016
Potato	1,500	Year of origin: 2009 – 2010
Speculation Business	2,800	Year of origin: 2015 – 2016

Solution 16 – 7:

Mr. Arif

Income year: 2016 – 2017; Assessment year: 2017 – 2018

	<u>Tk.</u>	<u>Tk.</u>	<u>Tk.</u>
Income from Salary			360,000
Income from House Property:			
Annual Value		180,000	
Less: Admissible expenses: Repair and maintenance	45,000		
Vacancy allowance	60,000		

	Uncollectible rent	60,000		
	Other	30,000	195,000	(15,000)
Income from Agriculture			(35,000)	
Less: subsidy received			15,000	(20,000)
Income from Business or profession: Garments			(1,000)	
Electronics			1,500	
Potato			10,000	10,500
Speculation Business			(8,000)	
Carry forward			8,000	-
Total Income				335,500

Income from Business or Profession:

Particulars	Garments	Electronics	Potato
Revenue	40,000	30,000	25,000
Less: expenses - Depreciation	-	2,000	-
Other expenses	41,000	20,000	15,000
Profit (loss)	(1,000)	8,000	10,000
Set off previous year's loss	-	4,500	-
Set off previous year's unabsorbed depreciation		2,000	
Income from business	(1,000)	1,500	10,000
Unabsorbed depreciation	5,000	-	-

KEY POINTS

1. Losses from one head are allowed to adjust with income from some other head(s).
2. It will reduce total taxable income.
3. Set off is not applicable for 'Income from Salary' and 'Income from other sources'.
4. Any losses computed under any head, income of which is exempted from tax shall not be set off against income from any other sources.
5. Some exceptions are their to set off losses for some specific heads, like – (a) Losses from Speculation business cannot be set off against income from any other head(s) but can be set off only against income from some other speculation business. (b) Losses from "Income from Business or Profession" cannot be set off against income from house property. (c) Losses from Capital gain cannot be set off against income from any other head(s) but only against some other capital gain. (d) Income from capital gain cannot be used to set off losses from the head Agriculture and Business or Profession (including speculation business).
6. When set off of losses are not completely possible against same year's income from other allowable heads, it is allowed to transfer such amount of losses to next year for set off.
7. Carry forward of losses is not possible for more than six successive assessment years.
8. All the provisions relating to set off of losses and carry forward of losses shall have effect subject to some conditions and limitations.
9. Depreciation allowance is not possible to charge against profit if it results a loss, but can charge up to that much which does not result any loss for the business or profession.
10. Unabsorbed depreciation can be carried forward for unlimited time period.

Chapter – 16: Set Off and Carry Forward of Losses

SUMMARY TABLE:

Sources of Income	Set off of losses	Carry forward	Set off of losses after carry forward
1. Income from Salary	Not applicable	Not applicable	Not applicable
2. Income from Securities	With income from <i>any</i> other heads	Not possible	
3. Income from House Property	With income from <i>any</i> other heads	Not possible	
4. Income from Agriculture	With income from any other heads <i>except</i> income from the head capital gain.	Possible	<i>Only</i> against income from the head Agriculture
5. Income from Business or Profession (except speculation business)	With income from any other heads <i>except</i> income from the head capital gain and income from house property.	Possible	<i>Only</i> against income from the <i>same</i> business
(Speculation business)	<i>Only</i> with income from some other speculation business	Possible	<i>Only</i> against income from speculation business
6. Income from capital Gain	<i>Only</i> with income from some other capital gain	Possible only by the amount <i>exceeds</i> taka five thousand	<i>Only</i> against income from the head capital gain
7. Income from other sources	Not applicable	Not applicable	Not applicable

Multiple choice questions:

1. In the year of loss, set off of losses is possible for any head except –
 - (a) income from agriculture
 - (b) income from business or profession
 - (c) income from salary
 - (d) income from capital gain
2. Carry forward of losses is possible to next –
 - (a) five successive assessment year
 - (b) six successive assessment year
 - (c) next assessment year only
 - (d) none
3. If you have losses from garments business, you can set it off in the year of loss against income from –
 - (a) any other heads
 - (b) any other business only
 - (c) any other garments business only
 - (d) none of the above
4. Losses from capital gain can be carried forward by the amount –
 - (a) of five thousand
 - (b) exceeding five thousand
 - (c) of losses
 - (d) nothing
5. Losses from speculation business can be set off against income from –
 - (a) any other heads
 - (b) any other business only
 - (c) any other speculation business only
 - (d) none
6. Losses from the head capital gain can be set off against income from –
 - (a) any other heads
 - (b) any other capital gain only
 - (c) any other heads except speculation business
 - (d) none
7. After carry forward agricultural losses can be set off against income from –
 - (a) any other heads
 - (b) any other heads except capital gain
 - (c) agricultural income only
 - (d) same agricultural product
8. After carry forward, losses from business or profession can be set off against income from –
 - (a) same business only
 - (b) any business only
 - (c) any heads
 - (d) any heads except capital gain
9. Where the assessee is the partner of a firm he/she can –
 - (a) carry forward or set off firm losses against his/her own income
 - (b) carry forward firm losses to set off against his/her own income in next year
 - (c) set off firm losses against his/her income
 - (d) do nothing to set off or carry forward firm's losses against his/her own income.

Chapter – 16: Set Off and Carry Forward of Losses

10. Unabsorbed depreciation can be carried forward for –
- (a) next six successive years
 - (b) next year only
 - (c) unlimited years
 - (d) none

Identify the following statements as True (T) or False (F):

1. If set off is possible in the same year even then you can carry forward losses to next year.
2. Income from speculation business can be used to set off losses from other sources except losses from capital gain.
3. Cash subsidy received from government will reduce amount of losses.
4. Income from capital gain can be used to set off losses resulted from any other sources.
5. Losses of any partnership firm can set off against income of any of the partners.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 16 – 1:** Define set off and Carry forward of losses according to the Income Tax Ordinance, 1984.
- Question 16 – 2:** Explain the provisions regarding losses arising under the head “Income from Business or Profession”.
- Question 16 – 3:** “Set off and Carry forward of losses is not possible for any losses arising under the head capital gain” – do you agree? Explain.
- Question 16 – 4:** Explain the provisions regarding losses arising under the head income from agriculture.
- Question 16 – 5:** State the similarities and differences between Section – 38 (carry forward of business losses) and Section – 39 (carry forward of loss from speculation business).
- Question 16 – 6:** State the conditions and limitations of carry forward of losses.
- Question 16 – 7:** What is unabsorbed depreciation? What are the provisions of carry forward in this regard?
- Question 16 – 8:** Write short note on:
- (a) Set off of losses
 - (b) Carry forward of losses
 - (c) Unabsorbed depreciation
 - (d) Speculation business

Problem 16 – 1:

For the assessment year 2017 – 18 Mr. Baki has: Loss in business Tk. (150,000); Agricultural income Tk. 40,000; Capital gain Tk. 40,000; Loss in speculative business Tk. (20,000); Property income Tk. 50,000 and Income from other sources Tk. 32,000. What would be the order of setting off the losses as shown here with the income under various heads?

Problem 16 – 2:

Calculate taxable income of Mr. Anik who is an accountant for the income year ended 30th June, 2017 considering his income from: salary Tk. 360,000; approved securities Tk. 20,000; sole proprietorship business Tk. 200,000; and agriculture Tk. 25,000.

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Problem 16 – 3:

Considering given information calculates taxable income for Mr. Alok for the year ended 30th June, 2017: Income from – Securities Tk. 30,000 (60% interest from tax free government securities); garments business Tk. (25,000); speculation business Tk. 15,000; capital gain Tk. (9,000). Mr. Alok carries forward losses of Tk. 7,000 from last year incurred in garments business.

Problem 16 – 4:

Considering given information calculate taxable income for Mr. Hasan for the income year ended 30th June, 2017: Income from salary Tk. 240,000; Annual rent received from house property Tk. 120,000; Losses from electronics business Tk. 200,000; Losses from speculation business Tk. 50,000; Losses from capital gain Tk. 17,000; and Interest from savings account Tk. 9,000

Problem 16 – 5:

Calculate taxable income for Mr. Shamol considering following income for different years.

	2014 – 2015	2015 – 2016	2016 – 2017
Income from Securities	12,000	12,000	12,000
Income from House Property	1,20,000	1,40,000	160,000
Income from Agriculture	(135,000)	(20,000)	40,000
Income from Capital gain	(25,000)	22,000	-

Problem 16 – 6:

From the following particulars of Mr. Alam compute taxable income for the income years:

Sources of income	2015 – 2016	2016 – 2017
Income from salary	Tk. 256,000	Tk. 268,000
Income from approved securities	40,000	40,000
Income from Agriculture	(80,000)	120,000
Income from electronics business	(130,000)	50,000
Income from garments business	(50,000)	15,000
Income from speculation business	10,000	(30,000)
Income from capital gain	(12,000)	10,000

Mr. Alam received Tk. 10,000 cash subsidy from government against losses incurred in agricultural sector and in the year 2015 – 2016 he has unabsorbed depreciation of Tk. 3,000 in electronics business and Tk. 10,000 in garments business which he carried forward to year 16–17.

Problem 16 – 7:

From the following particulars of Mr. Elahi Boksh compute taxable income for the income years:

Sources of income	2014 – 2015	2015 – 2016	2016 – 2017
Income from Agriculture	Tk. 55,000	Tk. 40,000	Tk. (62,000)
Income from electronics business	(80,000)	20,000	25,000
Income from garments business	15,000	21,000	17,000
Income from speculation business	8,000	(11,000)	35,000
Income from capital gain	(4,000)	(7,000)	17,000

Mr. Elahi Boksh carries speculation business losses of Tk. 20,000 and electronics business losses of Tk. 12,000 from the income year 2012 – 2013.

Chapter – 16: Set Off and Carry Forward of Losses

Answers:

Multiple choice questions		True/False
1. c	6. b	1. F
2. b	7. c	2. T
3. d	8. a	3. T
4. b	9. d	4. F
5. c	10. c	5. F

Self review 16 – 1:

Income from Salary	Tk. 440,000
Income from Business or Profession:	
Income from garments business	Tk. 40,000
Losses from fish business	<u>(25,000)</u>
	15,000
Taxable income for the year ended 30th June, 2017	<u>455,000</u>

Mr. Habib can carry forward Tk. 7,000 to next year because he cannot set off last year loss with income from any other head except income from fish business. On the other hand in current year losses from fish business is allowed to set off against income from any head except income from capital gain. So current year's loss need not to be transferred to next year.

Self review 16 – 2:

	2015 – 2016	2016 – 2017
Income from salary	200,000	200,000
Income from business:		
Speculation business – 1	(35,000)	(15,000)
Speculation business – 2	<u>20,000</u>	<u>44,000</u>
	(15,000)	29,000
Carry forward last year loss	<u>15,000</u>	<u>(15,000)</u>
	-	14,000
Income from capital gain	<u>22,000</u>	-
Taxable income	<u>222,000</u>	<u>214,000</u>

Self review 16 – 3:

In this year Mr. Hamid cannot set off any losses because loss from the head capital gain is not possible to set off with income from any other head(s). He needs to carry forward this loss but he can carry forward any losses from the head capital gain only above Tk. 5000. So he can carry forward Tk. 13,000.

In the second case Mr. Hamid cannot carry forward any loss because his losses from the head capital gain is below Tk. 5,000 (18,000 – 14,000 = 4,000).

CHAPTER - 17

RETURN OF INCOME

LEARNING OBJECTIVES

After studying Chapter 17, you shall be able to understand:

- ✦ who is required to file a return of income
- ✦ who is authorized to sign and verify return of income
- ✦ when should submit return of income
- ✦ what should accompany with return of income
- ✦ role of DCT to send notice
- ✦ production of information regarding payment of salary, interest, dividend etc.

17.1 WHO IS REQUIRED TO FILE A RETURN? (U/S - 75)

An individual is required to file a return in 3 situations whereas every company is required to file the same irrespective of income under section 75.

17.1.1 For Individuals

- (1) *If income exceeds maximum exemption limit:* If the total taxable income during the income year exceeded the maximum amount, which is not chargeable to tax under IT Ordinance, a person is required to file a return.

Example: Suppose, if the taxable income exceeds taka 250,000, a person is required to file a return in the assessment year 2017 – 18. Because, taka 250,000 is the maximum exemption limit for the assessment year 2017 – 18.

- (2) *If assessed in any one of the three immediate preceding years:* If any person was assessed to tax for any one of the three years immediately preceding the income year, he is also required to file a return.

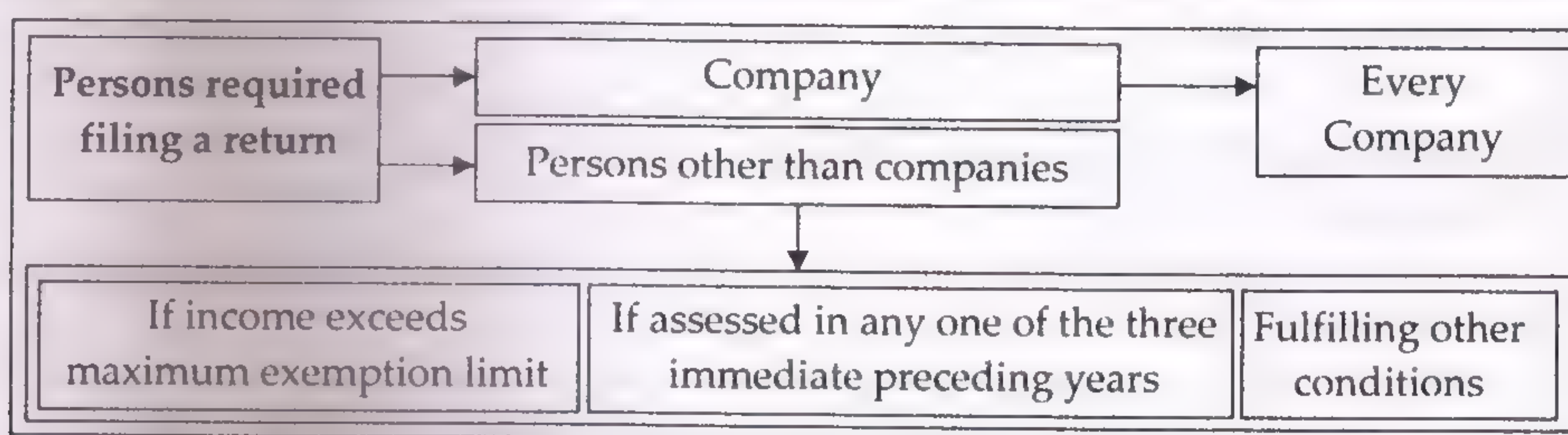
Note: Any non-resident Bangladeshi may file his return of income along with bank draft equivalent to the tax liability, if any, on the basis of such return, to his nearest Bangladesh mission and the mission will issue a receipt of such return with official seal and send the return to the Board.

- (3) *Fulfilling other conditions:* Where a person is not required to file a return of income under conditions 1 & 2, he will file a return of his income during the income year if he-
- (a) owns a motor car; or
 - (b) owns a membership of a club registered under Value Added Tax Act 1991; or
 - (c) runs any business or profession having trade license from a city corporation, a paurashava or a union parishad; or
 - (d) has registered with a recognized professional body as a doctor, dentist, lawyer, chartered accountant, cost and management accountant, engineer, architect or surveyor or any other similar profession; or
 - (e) has registered with the Board as an income tax practitioner; or
 - (f) has a membership of a chamber of commerce and industries or a trade association or body; or
 - (g) runs for an office of any paurashava, city corporation, or a Member of Parliament;

Chapter – 17: Return of Income

- (h) participates in a tender floated by the government, semi-government, autonomous body or a local authority; or
- (i) serves in the board of directors of a company or a group of companies; or
- (j) a shareholder director or a shareholder employee of a company; or
- (k) a partner of a firm; or
- (l) an employee of the government or an authority corporation, body or units of the government or formed by any law, order or instrument being in force, if the employee, at any time in the income year, draws a basic salary of taka sixteen thousand or more; or
- (m) an employee holding an executive/management position in a business/profession.

Provided that any non-resident Bangladeshi may file his return of income along with bank draft equivalent to the tax liability, if any, based such return, to his nearest Bangladesh mission and the mission will issue a receipt of such return with official seal and send the return to the Board.



17.1.2 Person Other than Individuals –

Submission of return is mandatory for the following persons:

- (a) a company;
- (b) a non-government organization registered with NGO Affairs Bureau;
- (c) a co-operative society;
- (d) a firm;
- (e) an association of persons

17.2 PERSON NOT REQUIRED TO SUBMIT RETURN

A return of income shall not be mandatory for-

- (a) an educational institution receiving government benefits under Monthly Payment Order (MPO); or
- (b) a public university; or
- (c) a fund; or
- (d) any class of persons which the Board, by order in official gazette, exempt from filing the return.

17.3 WHO IS AUTHORIZED TO SIGN A RETURN?

A return should be duly signed and verified by the respective individuals who hold the rights to do so as per the rules to make it a valid and complete one. A return, which is not signed and verified, is not merely an inaccurate or incomplete return, but it is not a return at all. (*Beharilal Chatterjee V. CIT [1934] I.T.R. 377*)

- (i) **In the case of an individual** - the individual himself; if absent, the authorized person; if mentally incapacitated, the guardian or any other person competent to act on his behalf;

- (ii) In the case of Hindu undivided family (HUF) - the Karta, if absent or mentally incapacitated, any other adult member of such family;
- (iii) In the case of a company or local authority - the principal officer thereof;
- (iv) In the case of a firm - any partner thereof, not being a minor;
- (v) In the case of any other association - any member of the association or the principal officer thereof; and
- (vi) In the case of any other person - that person or some person competent to act on his behalf;

SELF REVIEW 17 – 1

Consider the given income with other particulars of assessee during the income year 2016 – 17. Identify who is required to file return of income: P - Tk. 360,000 (did not assessed before); Q - Tk. 120,000 (resides within city corporation area); R - Tk. 120,000 (owns a motor car); S - Tk. 120,000 (has been assessed in last year).

17.4 WHAT SHOULD A RETURN ACCOMPANY BY?

A return should accompany by –

- (i) in the case of individual, statements of assets, liabilities and life style as required under section 80;
- (ii) in the case of a company, an audited statement of accounts and a computation sheet explaining the difference between the profit or loss shown in the statement of accounts and the income shown in the return.

17.5 WHEN TO FILE A RETURN?

The return is required to be filed within the time as mentioned below, provided that the DCT has not extended the time for a further period.

- (i) **For company:** By the fifteenth day of July next following the income year or, where the fifteenth day of July falls before the expiry of six months from the end of the income year, before the expiry of such six months; and
- (ii) **For all other cases:** on or before the Tax Day which is November 30 next following the income year.

Provided that an individual being Government official engaged in higher education or training on deputation or leave or employed under lien outside Bangladesh shall file return or returns for the period of such deputation or lien, at a time, within three months from the date of this return to Bangladesh. U/s 75, the last date for the submission of return as specified above may be extended by the DCT in respect of any person or class of persons for a period of two months and he may further extend the date up to two more months with the approval of the Inspecting JCT. An application for extension of time to submit the return of income can be filed even after the expiry of the date prescribed for filing the return (*Karan Singh (Punj)* 1977, 110 I.T.R. 726).

17.6 SUBMISSION OF RETURN OF WITHHOLDING TAX (U/S – 75A)

In the following cases, submission of return of withholding tax is required:

- (1) Every person, being a company, shall file or cause to be filed, with the Deputy Commissioner of Taxes where he is being assessed, a return of withholding tax collected or deducted as per provisions of Chapter VII of this Ordinance.
- (2) The return under sub-section (1) shall be-

- (a) furnished in the prescribed form setting forth therein such particulars and information as may be required thereby;
- (b) signed and verified by the principal officer thereof;
- (c) filed half-yearly by the following dates:
 - (i) First return: by Thirty-first January of the year in which the deduction or collection was made;
 - (ii) Second return: by Thirty-first July of the next year following the year in which the deduction or collection was made

Provided that the last date for the submission of a return as specified in this sub-section may be extended by the Deputy Commissioner of taxes upto fifteen days from the date so specified.

17.7 OBLIGATION TO FURNISH ANNUAL INFORMATION RETURN (U/S- 75B)

The provisions regarding obligation to furnish annual information return are as follows:

- (1) Government may, by notification in the official gazette, require any person or group of persons responsible for registering or maintaining books of account or other documents containing a record of any specified financial transaction, under any law for the time being in force, to furnish an Annual Information Return, in respect of such specified financial transaction.
- (2) The Annual Information Return referred to in sub-section (1) shall be furnished to the Board or any other income tax authority or agency, in such form, manner and within such time as may be prescribed.

17.8 FILING OF RETURN IN RESPONSE TO NOTICE (U/S - 77)

The DCT may, at any time after expiry of the date specified u/s 75, by a notice in writing, require-

- (a) Any person, other than a company, to file a return of his total income if in his opinion, such income exceeds the maximum exemption limit.
- (b) Any company to file a return of its total income, if it is not filed.

The return in response to the notice as served shall be filed within such period, not being less than twenty-one days, as may be specified in the notice or within such extended period as the DCT may allow. The assessee is under an obligation to file return in response to a notice under this section even where the assessee claims that his income is exempt from tax for it is not the Department to determine whether the income is entitled to exemption (*Lala Gopi Mal Kusiala Charitable Trust v. I.T.O. [Punj]* 1962, 76 I. T. R. 436).

17.9 FILING OF REVISED RETURN (U/S - 78)

Any person who has not filed a return as required under section 75 or 77 or who, having filed a return, discovers any omission or incorrect statement therein, may file a return or a revised return, as the case may be, at any time before the assessment is made (*Esthuri Aswathiah v. I. T. O. [1961]*), 47 I.T.R. 539 (S.C.)). But a person who has earlier filed a false return knowing it to be false cannot claim the benefit of this provision (*C.I.T. v. Badridas Ramrai Shop [1939]* I.T.R. 613). If the assessee discovers any omission or any wrong statement in such revised return, he is entitled to furnish a second return. (*Niranjan Lal Ram Chandra V. CIT [1982]* I.T.R. 352) Because once a return is revised and filed, it gets the status of original return. An application by the assessee to the Deputy Commissioners of Taxes asking him to add certain income to the income already disclosed in the return will not be furnishing a revised return within the meaning of this sub-section (*Gopaldas Anantramdas v. C.I.T. [1941]* I. T. R. 130).

17.10 NOTICES FOR PRODUCTION OF ACCOUNTS AND DOCUMENTS

Under section – 79, the Deputy Commissioner of Taxes may, by notice in writing, require an assessee who has filed a return under Chapter VIII, or to whom a notice has been issued to file a return, to produce or cause to be produced such accounts, statements, documents, data or electronic records, not being earlier than three years prior to the income year, as he may consider necessary for the purpose of audit or assessment under this Ordinance.

The DCT may specify in the notice that the accounts, statements, documents, data or electronic records or any part thereof shall be produced in such electronic form or by such electronic media as may be mentioned in the notice. The accounts, statements, documents, data or electronic records shall be produced on or before the date as may be specified in the notice.

The assessee must comply with the notice, even if he thinks that the accounts or documents required by the DCT are irrelevant (*Tulsi Das Nagin Chand v. C.I.T. [1938] I. T.R. 385*). Because, The DCT is the sole judge of what is relevant. His discretion to issue a notice under this section is unfettered (*Kunwariji Ananda v. C.I.T. 5 I.T.C. 417, 430*). But the assessee must be given reasonable time within which to produce his books (*C.I.T v. Bombay Trust Corporation Ltd. [1936] I.T.R. 323, 338 (P.C.)*; *Sadaram Puranchand v. C.I.T. 5 I.T.C. 459, 464*). Upon the refusal or failure to comply with the notice under this section, the DCT would have a right to enter on the assessee's business premises to examine the accounts (U/s – 116(3)).

17.11 STATEMENT OF ASSETS, LIABILITIES AND LIFE STYLE

Every individual assessee shall furnish statements in the forms and manners as prescribed in respect of the total assets, liabilities and expenses of the person or the spouse, minor children and dependents of the person as on the last date of the income year if the person –

- (a) has, in the last date of the income year, a gross wealth exceeding taka twenty lakh; or
- (b) owns a motor car; or
- (c) has made an investment in a house property or an apartment in the city corporation area:

Provided that any person, being an individual assessee, who is not required to submit the statement mentioned in this sub-section may voluntarily submit such statement.

Every individual assessee shall furnish a statement of expenses relating to the life style of such person in the forms and manners as prescribed. An individual, not being a shareholder director of a company, having income from salary or from business or profession may opt not to submit such statement if his total income does not exceed three lakh taka in the income year.

17.12 PRODUCTION OF OTHER INFORMATION AT THE TIME OF SUBMISSION OF RETURN OR IN OTHER CIRCUMSTANCES:

17.12.1 Information regarding payment of salary (U/s – 108 & Rule - 23) –

Every person responsible for making any payment constituting income classifiable under the head "Salaries" not being payment made by the Government, and the prescribed officer in cases where such payments are made by the Government, shall, before the first day of September each year (the DCT may extend the date), furnish to the DCT if the payment of salary during the preceding financial year exceeds Taka 20,000 or the maximum amount not liable to tax whichever is higher, a statement prepared in the prescribed form as per Rule 23 (Persons responsible for making payments under the head 'Salaries') and verified in the prescribed manner so as to give the following information, namely:

Chapter – 17: Return of Income

- (a) The name and address of every person to whom such payment has been made, or was due;
- (b) The amount of payment so made, or due;
- (c) The amount deducted as tax from such payment; and
- (d) Such other particulars as may be prescribed.

17.12.2 Information regarding payment of interest (U/s – 109 & Rule - 20) –

Every person responsible for making any payment of interest constituting income not classifiable under the head "Interest on securities" shall, if such payment exceeds Taka 15,000, before the first day of September each year, furnish to a prescribed officer a statement prepared in the prescribed form as per Rule 20 (Statement regarding payment of interest other than interest on securities) and verified in the prescribed manner so as to give the following information, namely:

- (a) Name and address of every person to whom such payment has been made/was due;
- (b) The amount of payment so made or due; and
- (c) Such other particulars as may be prescribed.

17.12.3 Information regarding payment of dividend (U/s – 110 & Rule - 19) –

The principal officer of every company shall, before the first day of September each year, furnish to the prescribed officer, a statement prepared in the prescribed form as per Rule 19 (Company to furnish a statement regarding payment of dividend) and verified in the prescribed manner, so as to give the following information, namely:

- (a) Name and address of every shareholder, as entered in the register of shareholders, to whom a dividend or the aggregate of dividends has been paid or distributed;
- (b) The amount of dividend or dividends so paid or distributed; and
- (c) Such other particulars as may be prescribed.

Note: The statement should be submitted only if the aggregate amount of dividend exceeds Taka 1 in the case of a company shareholder and Taka 20,000 in case of any other shareholder.

17.12.4 Particulars to be furnished on interest on securities by a person other than the Government (Rule - 10) –

For income under "Interest on securities", where the deduction is not made by or on behalf of the Government, the person responsible for paying the interest shall, at the time of deduction send to the concerned DCT, a statement showing the following particulars:

- | | |
|--------------------------------|---|
| (a) Description of securities, | (b) Period for which interest is drawn, |
| (c) Numbers of securities, | (d) Amount of interest, |
| (e) Dates of securities, | (f) Amount of tax; and |
| (g) Amounts of securities, | (h) Date on which tax was deducted. |

17.12.5 Particulars to be furnished by persons making deductions at source (Rule - 12) –

The person making deductions in accordance with the provisions of sections 49(I)(g), 54 and 56 shall, at the time of deduction, send to the concerned DCT a statement showing the following particulars;

- (a) Name and address of the non-resident on whose behalf the tax is deducted.
- (b) The date of payment and, in the case of dividend, the date of the declaration of the dividend by the company.
- (c) The nature of payment.
- (d) The amount paid –

- (i) As interest, the rate percent per annum, the period for which the interest has been paid and the amount on which the interest had been computed,
- (ii) As dividend, the amount before deduction of tax.
- (e) The amount of income tax deducted.

17.12.6 Statement of deduction of tax under the head “Salaries” where such deduction is not made by or on behalf of the Government (Rule - 21) –

In the case of income chargeable under the head “Salaries” where deduction is not made by or on behalf of the Government, the person making the deduction shall send to the DCT within whose jurisdiction the deduction is made (or where there is more than one DCT having jurisdiction in the same area to the DCT specified by the Commissioner) a statement in the form as prescribed in Rule – 21.

SELF REVIEW 17 – 2

What information needs to furnish in cases of – (a) Information regarding payment of interest. (b) Information regarding payment of dividend.

17.12.7 Form of Return (Rule – 24 , Rule 25 & 25A attached) –

Finance Act 2016 has revised the contents and formats of return form for different categories of individual assessees. A summary of such changes may be given as below:

Form	Purpose	Applicable to
IT 11 GA2016	Return of Income	Individual Assessee
IT 11GHA2016	Return of Income	Company Assessee
IT 11CHA2016	Return of Income	Other than Individual and Company Assessee
IT 11 GAGA	Return of Income	Return under Section 82D (Spot Assessment)
IT 10B2016	Statement of Assets, Liabilities and Expenses	Individual Assessee
IT 10BB2016	Statement of Expenses relating to Life Style	Individual Assessee
Schedule 24A	Particulars of income from salaries	Assessee having income from salaries
Schedule 24B	Particulars of income from house property	Assessee having income from house property
Schedule 24C	Income from business or profession	Assessee having income from business or profession
Schedule 24D	Particulars of tax credit/rebate	Assessee claiming investment tax credit
Schedule 25		To be annexed to the Statement of Assets, Liabilities and Expenses (IT-10B)

Here, only the return form applicable to salaried individual is provided as an example. Other assessee can download the respective form from NBR website: www.nbr.gov.bd

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IT-11GA2016

RETURN OF INCOME

For an Individual Assessee

The following schedules shall be the integral part of this return and must be annexed to return in the following cases:

Schedule 24A *if you have income from Salaries*
Schedule 24B *if you have income from house property*
Schedule 24C *if you have income from business or profession*
Schedule 24D *if you claim tax rebate*

Photo

PART I Basic information

01	Assessment Year 2 0 -	02	Return submitted under section 82BB? (tick one)	
			Yes	No
03	Name of the Assessee	04	Gender (tick one) M F	
05	Twelve-digit TIN	06	Old TIN	
07	Circle	08	Zone	
09	Resident Status (tick one)	Resident Non-resident		
10	Tick on the box(es) below if you are:			
	10A	A gazetted war-wounded freedom fighter	10B	A person with disability
	10C	Aged 65 years or more	10D	A parent/legal guardian of a person with disability
11	Date of birth(DD-MM-YYYY) 2 0	12	Income Year to	
13	If employed, employer's name			
14	Spouse Name	15	Spouse TIN (if any)	
16	Father's Name	17	Mother's Name	
18	Present Address	19	Permanent Address	
20	Contact Telephone	21	E-mail	
22	National Identification Number	23	Business Identification Number(s)	

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PART II Particulars of Income and Tax

TIN

Particulars of Total Income			Amount ৳
24	Salaries (annex Schedule 24A)	S.21	
25	Interest on securities	S.22	
26	Income from house property (annex Schedule 24B)	S.24	
27	Agricultural income	S.26	
28	Income from business or profession (annex Schedule 24C)	S.28	
29	Capital gains	S.31	
30	Income from other sources	S.33	
31	Share of income from firm or AOP		
32	Income of minor or spouse under section 43(4)	S.43	
33	Foreign income		
34	Total income (aggregate of 24 to 33)		

Tax Computation and Payment		Amount ৳
35	Gross tax before tax rebate	
36	Tax rebate (annex Schedule 24D)	
37	Net tax after tax rebate	
38	Minimum tax	
39	Net wealth surcharge	
40	Interest or any other amount under the Ordinance (if any)	
41	Total amount payable	
42	Tax deducted or collected at source (<u>attach proof</u>)	
43	Advance tax paid (<u>attach proof</u>)	
44	Adjustment of tax refund [mention assessment year(s) of refund]	
45	Amount paid with return (<u>attach proof</u>)	
46	Total amount paid and adjusted (42+43+44+45)	
47	Deficit or excess (refundable) (41-46)	
48	Tax exempted income	

Chapter – 17: Return of Income

PART III

Instruction, Enclosures and Verification

TIN

49	Instructions 1. Statement of assets, liabilities and expenses (IT-10B2016) and statement of life style expense (IT-10BB2016) must be furnished with the return unless you are exempted from furnishing such statement(s) under section 80. 2. Proof of payments of tax, including advance tax and withholding tax and the proof of investment for tax rebate must be provided along with return. 3. Attach account statements and other documents where applicable				
50	If you are a parent of a person with disability, has your spouse availed the extended tax exemption threshold? (tick one)	Yes <input type="checkbox"/>	No <input type="checkbox"/>		
51	Are you required to submit a statement of assets, liabilities and expenses (IT-10B2016) under section 80(1)? (tick one)	Yes <input type="checkbox"/>	No <input type="checkbox"/>		
52	Schedules annexed (tick all that are applicable)	24A <input type="checkbox"/>	24B <input type="checkbox"/>	24C <input type="checkbox"/>	24D <input type="checkbox"/>
53	Statements annexed (tick all that are applicable)	IT-10B2016 <input type="checkbox"/>	IT-10BB2016 <input type="checkbox"/>		
54	Other statements, documents, etc. attached (list all)				

Verification and signature

55	Verification I solemnly declare that to the best of my knowledge and belief the information given in this return and statements and documents annexed or attached herewith are correct and complete.	
	Name	Signature
	Date of Signature (DD-MM-YYYY) <div style="text-align: center;">2 0</div>	Place of Signature

For official use only Return Submission Information

Date of Submission(DD-MM-YYYY) <div style="text-align: center;">2 0</div>	Tax Office Entry Number <div style="text-align: center;"> </div>
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ACKNOWLEDGEMENT RECEIPT OF RETURN OF INCOME

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IT-10B2016

STATEMENT OF ASSETS, LIABILITIES AND EXPENSES under section 80(1) of the Income Tax Ordinance, 1984 (XXXVI of 1984)

1. Mention the amount of assets and liabilities that you have at the last date of the income year. All items shall be at cost value include legal, registration and all other related costs;
2. If your spouse or minor children and dependent(s) are not assessee, you have to include their assets and liabilities in your statement;
3. Schedule 25 is the integral part of this Statement if you have business capital or agriculture or non-agricultural property. Provide additional papers if necessary.

01	Assessment Year 2 0 --	02	Statement as on(DD-MM-YYYY) 2 0
03	Name of the Assessee	04	TIN

Particulars			Amount ₳
05	Business capital (05A+05B)		
	05A	Business capital other than 05B	
	05B	Director's shareholdings in limited companies (as in Schedule 25)	
06	06A	Non-agricultural property (as in Schedule 25)	
	06B	Advance made for non-agricultural property(as in Schedule25)	
07	Agricultural property (as in Schedule25)		
08	Financial assets value (08A+08B+08C+08D+08E)		
	08A	Share, debentures etc.	
	08B	Savings certificate, bonds and other government securities	
	08C	Fixed deposit, Term deposits and DPS	
	08D	Loans given to others (mention name and TIN)	
	08E	Other financial assets (give details)	
09	Motor car (s) (use additional papers if more than two cars)		
	Brand name	Engine (CC)	Registration No.
10	Diamond, gems and other items(mention quantity)		
11	Furniture, equipment and electronic items		
12	Assets of significant value		

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Particulars		Amount ট
13	Cash and fund outside business(13A+13B+13C+13D)	
	13A Notes and currencies	
	13B Banks, cards and other electronic cash	
	13C Provident fund and other fund	
	13D Other deposits, balance and advance (other than 08)	
14	Gross wealth (aggregate of 05 to 13)	
15	Liabilities outside business(15A+15B+15C)	
	15A Borrowings from banks and other financial institutions	
	15B Unsecured loan (mention name and TIN)	
	15C Other loans or overdrafts	
16	Net wealth (14-15)	
17	Net wealth at the last date of the previous income year	
18	Change in net wealth (16-17)	
19	Other fund outflow during the income year (19A+19B+19C)	
	19A Annual living expenditure and tax payments (as IT-10BB2016)	
	19B Loss, deductions, expenses, etc. not mentioned in IT-10BB2016	
	19C Gift, donation and contribution (mention name of recipient)	
20	Total fund outflow in the income year (18+19)	
21	Sources of fund (21A+21B+21C)	
	21A Income shown in the return	
	21B Tax exempted income and allowance	
	21C Other receipts and sources	
22	Shortage of fund, if any (21-20)	

Verification and signature

23	Verification I solemnly declare that to the best of my knowledge and belief the information given in this statement and the schedule annexed herewith are correct and complete.	
	Name	Signature& date

Chapter – 17: Return of Income

SCHEDULE 25

to be annexed to the Statement of Assets, Liabilities and Expenses (IT-10B2016)

01	Assessment Year	02	TIN
----	-----------------	----	-----

03	Shareholdings in limited companies as director	No. of shares	Value ₪
	1		
	2		
	3		
	4		

04	Non-agricultural property at cost value or any advance made for such property (description, location and size)	Value at the start of income year ₪	increased/ decreased during the income year ₪	Value at the last date of income year ₪
	1			
	2			
	3			
	4			

05	Agricultural property at cost value (description, location and size)	Value at the start of income year ₪	increased/ decreased during the income year ₪	Value at the last date of income year ₪
	1			
	2			
	3			
	4			

(Provide additional paper if necessary)

Name	Signature & date
------	------------------

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IT-10BB2016

STATEMENT OF EXPENSES RELATING TO LIFESTYLE under section 80(2) of the Income Tax Ordinance, 1984 (XXXVI of 1984)

01	Assessment Year 2 0 0 0	02	Statement as on (DD-MM-YYYY) 2 0 0 0
03	Name of the Assessee	04	TIN

Particulars		Amount ₳	Comment
05	Expenses for food, clothing and other essentials		
06	Housing expense		
07	Auto and transportation expenses(07A+07B)		
	07A Driver's salary, fuel and maintenance		
	07B Other transportation		
08	Household and utility expenses (08A+08B+08C+08D)		
	08A Electricity		
	08B Gas, water, sewer and garbage		
	08C Phone, internet, TV channels subscription		
	08D Home-support staff and other expenses		
09	Children's education expenses		
10	Special expenses (10A+10B+10C+10D)		
	10A Festival, party, events and gifts		
	10B Domestic and overseas tour, holiday, etc.		
	10C Donation, philanthropy, etc.		
	10D Other special expenses		
11	Any other expenses		
12	Total expense relating to lifestyle (05+06+07+08+09+10+11)		
13	Payment of tax, charges, etc. (13A+13B)		
	13A Payment of tax at source		
	13B Payment of tax, surcharge or other amount		
14	Total amount of expense and tax (12+13)		

Verification and signature

15	Verification I solemnly declare that to the best of my knowledge and belief the information given in this statement is correct and complete.	
	Name	Signature& date

Chapter - 17: Return of Income

SCHEDULE 24A

Particulars of income from Salaries

Annex this Schedule to the return of income if you have income from Salaries

01	Assessment Year 2 0 -	02	TIN
----	---------------------------------	----	-----

Particulars	Amount (A)	Tax exempted (B)	Taxable (C = A-B)
03 Basic pay			
04 Special pay			
05 Arrear pay (if not included in taxable income earlier)			
06 Dearness allowance			
07 House rent allowance			
08 Medical allowance			
09 Conveyance allowance			
10 Festival Allowance			
11 Allowance for support staff			
12 Leave allowance			
13 Honorarium/ Reward/Fee			
14 Overtime allowance			
15 Bonus / Ex-gratia			
16 Other allowances			
17 Employer's contribution to a recognized provident fund			
18 Interest accrued on a recognized provident fund			
19 Deemed income for transport facility			
20 Deemed income for free furnished/ unfurnished accommodation			
21 Other, if any (give detail)			
22 Total			

Figures of amount are in taka (₳)

Name	Signature & Date
------	------------------

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SCHEDULE 24B

Particulars of income from house property

Annex this Schedule to the return of income if you have income from house property

01	Assessment Year 20 -	02	TIN
----	-------------------------	----	-----

For each house property

03	Description of the house property			
	03A	Address of the property	03B	Total area
			03C	Share of the assessee (%)

Income from house property			Amount ₹
04	Annual Value		
05	Deductions (aggregate of 05A to 05G)		
	05A	Repair, Collection, etc.	
	05B	Municipal or Local Tax	
	05C	Land Revenue	
	05D	Interest on Loan/Mortgage/Capital Charge	
	05E	Insurance Premium	
	05F	Vacancy Allowance	
	05G	Other, if any	
06	Income from house property (04-05)		
07	In case of partial ownership, the share of income		

Provide information if income from more than one house property

08	Aggregate of income of all house properties (1+2+3+...) (provide additional papers if necessary)		₹
	1	(Income from house property 1)	₹
	2	(Income from house property 2)	₹
	3	(Income from house property 3)	₹

Name	Signature & Date
------	------------------

Chapter - 17: Return of Income

SCHEDULE 24C

Summary of income from business or profession

To be annexed to return by an assessee having income from business or profession

01	Assessment Year	02	TIN
	2 0 -		

03	Type of main business or profession		
04	Name(s) of the business or profession (as in trade licence)	05	Address(es)

Use serial numbers if more names and addresses

Summary of Income

Amount ₹

06	Sales/ Turnover/ Receipts	
07	Gross Profit	
08	General, administrative, selling and other expenses	
09	Net Profit (07-08)	

Summary of Balance Sheet

Amount ₹

10	Cash in hand & at bank	
11	Inventories	
12	Fixed assets	
13	Other assets	
14	Total assets(10+11+12+13)	
15	Opening capital	
16	Net profit	
17	Withdrawals in the income year	
18	Closing capital (15+16-17)	
19	Liabilities	
20	Total capital and liabilities (18+19)	

Signature & Date

Bangladesh Income Tax – Theory and Practice

SCHEDULE 24D

Particulars of tax credit/rebate

To be annexed to return by an assessee claiming investment tax credit
(Attach the proof of claimed investment, contribution, etc.)

01	Assessment Year 2 0 - - - -	02	TIN
----	---------------------------------------	----	-----

Particulars of rebatable investment, contribution, etc.			Amount
03	Life insurance premium		
04	Contribution to deposit pension scheme (not exceeding allowable limit)		
05	Investment in approved savings certificate		
06	Investment in approved debenture or debenture stock, Stock or Shares		
07	Contribution to provident fund to which Provident Fund Act, 1925 applies		
08	Self contribution and employer's contribution to Recognized Provident Fund		
09	Contribution to Super Annuation Fund		
10	Contribution to Benevolent Fund and Group Insurance Premium		
11	Contribution to Zakat Fund		
12	Others, if any (give details)		
13	Total allowable investment, contribution etc.		
14	Eligible amount for rebate (the lesser of 14A, 14B or 14C)		
	14A	Total allowable investment, contribution, etc. (as in 13)	
	14B % of the total income [excluding any income for which a tax exemption or a reduced rate is applicable under sub-section (4) of section 44 or any income from any source or sources mentioned in clause (a) of sub-section (2) of section 82C.]	
	14C	1.5 crore	
15	Amount of tax rebate calculated on eligible amount (Serial14) under section 44(2)(b)		

Name	Signature & Date
------	------------------

17.12.8 Particulars for depreciation allowance (Rule - 41)

For the purpose of paragraph 2(3)(a) of the Third Schedule to the Ordinance, the particulars to be furnished shall be in the form as prescribed in Rule 41.

17.12.9 Furnishing abstract of the provident fund account of an employee (Rule - 47)

An abstract for the financial year or other applicable accounting period of the individual account of each employee participating in a recognized PF whose income under “Salaries” is Tk. 20,000 or over per annum, shall be furnished, within 15th September or any other subsequent date fixed by the DCT, in the form specified in rule 46, but shall show only the totals of the various columns thereof for the financial year or other accounting period.

17.9.10 Statement of international transactions to be submitted [Sec- 107EE]: Every person who has entered into an international transaction shall furnish, along with the return of income, a statement of international transactions in prescribed form and manner.

17.9.10 Return, statements, etc., that may be required to be furnished (Rule – 58B) –

The trustees of an approved gratuity fund and an employer who contributes to an approved gratuity fund may be required by notice from the DCT under paragraph 8 of Part C of the First Schedule to the Ordinance to – (a) Furnish a return containing such particulars of contributions as the notice may require; (b) Prepare and deliver a return containing – (i) The name and place of residence of every person in receipt of a gratuity from the fund; and (ii) The amount of the gratuity paid to each employee; and (c) Furnish a copy of the accounts of the fund together with such other information and particulars as may be reasonable required.

KEY POINTS

1. A person other than a company is required to file a return if his or her tax payable income during the income year 2016 – 17 exceeds Tk. 250,000 or if he/she has been assessed in any one of the three immediately preceding years.
2. Every company has to file a return of income irrespective of their profitability.
3. In the case of an individual the person authorized to sign on the return of income is the individual himself; if absent, the authorized person; if mentally incapacitated, the guardian or any other person competent to act on his behalf.
4. Generally a company is required to file a return by the 15th July next following the income year and for any other assessee by the 30th September next following the income year.
5. The return should be supported with proper documents like statement of assets and liabilities by an individual assessee and audited financial statement for a company.
6. Where the full amount of tax payable has been deducted at source, assessee may, instead of filing a return file a certificate of income along with supplementary documents.
7. The DCT may, at any time after expiry of the last date for filling return by a notice in writing asks the assessee to file a return of income.
8. A person can furnish a revise return at any time before assessment is made when he/she discover any omission or incorrect statement.
9. The DCT may, by notice in writing, require an assessee to produce or cause to produce any accounts, statements or documents at the time specified on the notice.
10. The DCT may extend the date for the delivery of the statement.

Multiple choice questions:

1. Which of the following is not a reason to a person other than a company for filling return –
 - (a) owns a motor car
 - (b) CA
 - (c) has no TIN
 - (d) CMA
2. Who is not authorized to sign a return in the case of an individual –
 - (a) individual himself
 - (b) authorized person
 - (c) lawyer of the assessee
 - (d) none of the above
3. When an assessee other than a company need to file a return –
 - (a) by the 30th June
 - (b) by the 30th September
 - (c) by the 15th July
 - (d) by the 15th August
4. DCT may send a notice to file a return within such days not being less than –
 - (a) 21 days
 - (b) 30 days
 - (c) 60 days
 - (d) 7 days
5. An abstract of the provident fund account of an employee need to furnish where each employee participating in a RPF and whose income under the head salary is –
 - (a) Tk. 15,000 or over per month
 - (b) Tk. 20,000 or over per month
 - (c) Tk. 15,000 or over per year
 - (d) Tk. 20,000 or over per year
6. When an assessee can file a revise return –
 - (a) before assessment is made
 - (b) after assessment is made
 - (c) at any time
 - (d) never
7. Which of the following need not to be submitted by an individual with return of income –
 - (a) Particulars of life style
 - (b) Statements of assets
 - (c) Statements of liabilities
 - (d) Audited statement of accounts
8. The last date for the submission of return may be extended by the DCT for a period of –
 - (a) 21 days
 - (b) 2 months
 - (c) 1 month
 - (d) 30 days
9. In the case of a company who is authorized to sign on the return –
 - (a) Chief accountant
 - (b) Principal officer
 - (c) Chairmen of the board
 - (d) Any official

Chapter – 17: Return of Income

10. Who can send notice and asks for filling return or to produce accounts and documents –
- (a) Commissioner of Taxes
 - (b) Appellate Joint Commissioner
 - (c) Deputy Commissioner
 - (d) Tax Recovery Officer

Identify the following statements as True (T) or False (F):

1. Every company is required to file a return irrespective of their profitability.
2. If someone's (except company) tax payable income does not exceed Tk. 250,000 in the income year 2016 – 17, he/she may required to file return of income in some specific cases.
3. The chief accountant shall furnish information regarding payment of dividend to the prescribed officer.
4. DCT can extend the period for submission of return.
5. DCT can send notice and can ask for accounts and documents.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 17 – 1: “If someone's income during the income year does not exceeds the maximum amount which is not chargeable to tax, may required to file return” – do you agree? Explain.
- Question 17 – 2: Who is authorized to sign on the return of income and when an assessee should file the return of income?
- Question 17 – 3: “The DCT may, at any time send a notice to the assessee and may ask for filling a return or may asks for accounts and documents” – explain.
- Question 17 – 4: How do you think a non resident Bangladeshi can submit his/her return of income?
- Question 17 – 5: When can an assessee submit certificate in place of return?
- Question 17 – 6: How do you think an assessee can file a revise return?
- Question 17 – 7: When do you think information regarding payment of dividend is required to furnish? What information should be provided in this regard?
- Question 17 – 8: Write short note on:
- (a) Certificate in place of return
 - (b) Filling of return by a company
 - (c) Form of return
 - (d) Section 77

Answers:

Multiple choice questions		True/False
1. c	6. a	1. T
2. d	7. d	2. T
3. b	8. b	3. F
4. a	9. b	4. T
5. d	10. c	5. T

Self review 17 – 1:

- P:** Required to file return because his income exceeds maximum amount which is not chargeable to tax.
- Q:** Need not to file a return because his income does not exceed Tk. 250,000.
- R:** Required to file return though his income does not exceed Tk. 250,000 but he owns a motor car.
- S:** Required to file return though his income does not exceed Tk. 250,000 but he has been assessed in last year.

Self review 17 – 2:

Information regarding payment of interest	Information regarding payment of dividend
1. The name and address of every person to whom such payment has been made, or was due; -	1. The name and address of every shareholder, as entered in the register of shareholders, to whom a dividend or the aggregate of dividends has been paid or distributed;
2. The amount of payment so made or due; and	2. The amount of dividend or dividends so paid or distributed; and
3. Such other particulars as may be prescribed.	3. Such other particulars as may be prescribed.

CHAPTER – 18

ASSESSMENT

● LEARNING OBJECTIVES ●

After studying Chapter 18, you shall be able to understand:

- ⊕ the concept of assessment and assessment cycle
 - ⊕ types of assessment
 - ⊕ assessment under special cases
 - ⊕ limitations of assessment
 - ⊕ assessment of –
 - Individuals
 - Firms
 - Companies
-

The term 'assessment' is very important in income tax literature. Most of the sections of ITO lead to fair assessment of the assessee. Traditionally, assessment may mean to calculate the taxable income with the tax liability. But, in modern sense, assessment is a wider concept. It is not mere calculation rather is a process that starts from the identification of taxpayers and ends with the collection of tax from him to the satisfaction of IT authority. Thus, it covers the full cycle of assessment (discussed later).

18.1 DEFINITION

'Assessment', with its grammatical variations and cognate expressions, includes re-assessment and additional or further assessment [U/s 2(8)]. Thus, IT ordinance gives an inclusive definition that will not serve the ultimate purpose. Here, the respective authority (say, DCT) enjoys every room of interpretation. The word "assessment" must be understood in each section of ITO with reference to the context in which it is used: in some sections it has a comprehensive meaning and includes reassessment and in some sections it has a restricted meaning and is used as distinct from reassessment (e.g. s. 93) (*Lakshman Shenoy vs. I.T.O. and I.T.O. vs. City Tobacco Mart* [1958] 34 I.T.R. 275, 289-91 (S.C. of India)). The word 'assessment' is used in the Ordinance as meaning sometimes the computation of income, sometimes the determination of the amount of tax payable, and sometimes the whole procedure laid down in the Ordinance for imposing liability on the taxpayer (*C.I.T. vs. Khemchand Ranidas* 1938 I.T.R. 414, 416 (P.C.)). Generally, "assessment has to be construed in a wide sense and means not only the computation of income but the entire process of computation of income and tax payable, including re-assessment" (*C.I.T. vs. Balkruitne Maltatra* (S.C. of India) 1971, 81, I.T.R. 759). Thus, the word assessment is not confined in the statute to the definite act of making an assessment: it also refers to the "course of assessment", i.e. assessment proceedings (*Sir Rajendra Nath Mukterju* (P.C.) 1934, 21, I.T.R. 71, 77).

18.2 ASSESSMENT CYCLE

Assessment cycle is the steps required to complete the full assessment process. It starts with the taxpayer (assessee) and ends with the payment of required tax to the full satisfaction of the IT authority. The same process continues over the years and forms a never-ending loop. Assessment starts with the assessee. In the normal course, Assessee initiates the assessment function. But,

Chapter - 18: Assessment

sum. The process starts with serving notice of demand (U/s - 135) in the prescribed form specifying therein the sum payable and the time within which, and the manner in which, it is payable, together with a copy of an assessment order. If the assessee failed to pay tax within the time specified, he will be deemed to be in default and in such circumstances; the Deputy Commissioner of Taxes may forward to the Tax Recovery Officer a certificate for recovery of the tax, under his signature specifying the amount of arrears due from the assessee (U/s - 138). Such recovery may also be made by Collector of District (U/s - 142), Special Magistrate (U/s - 142A).

9. Any assessee, if aggrieved, may appeal to higher tax authority in line with the sections 153 to 162 of Chapter 19 of IT Ordinance 1984. The sequence in appeal is given in the following figure.

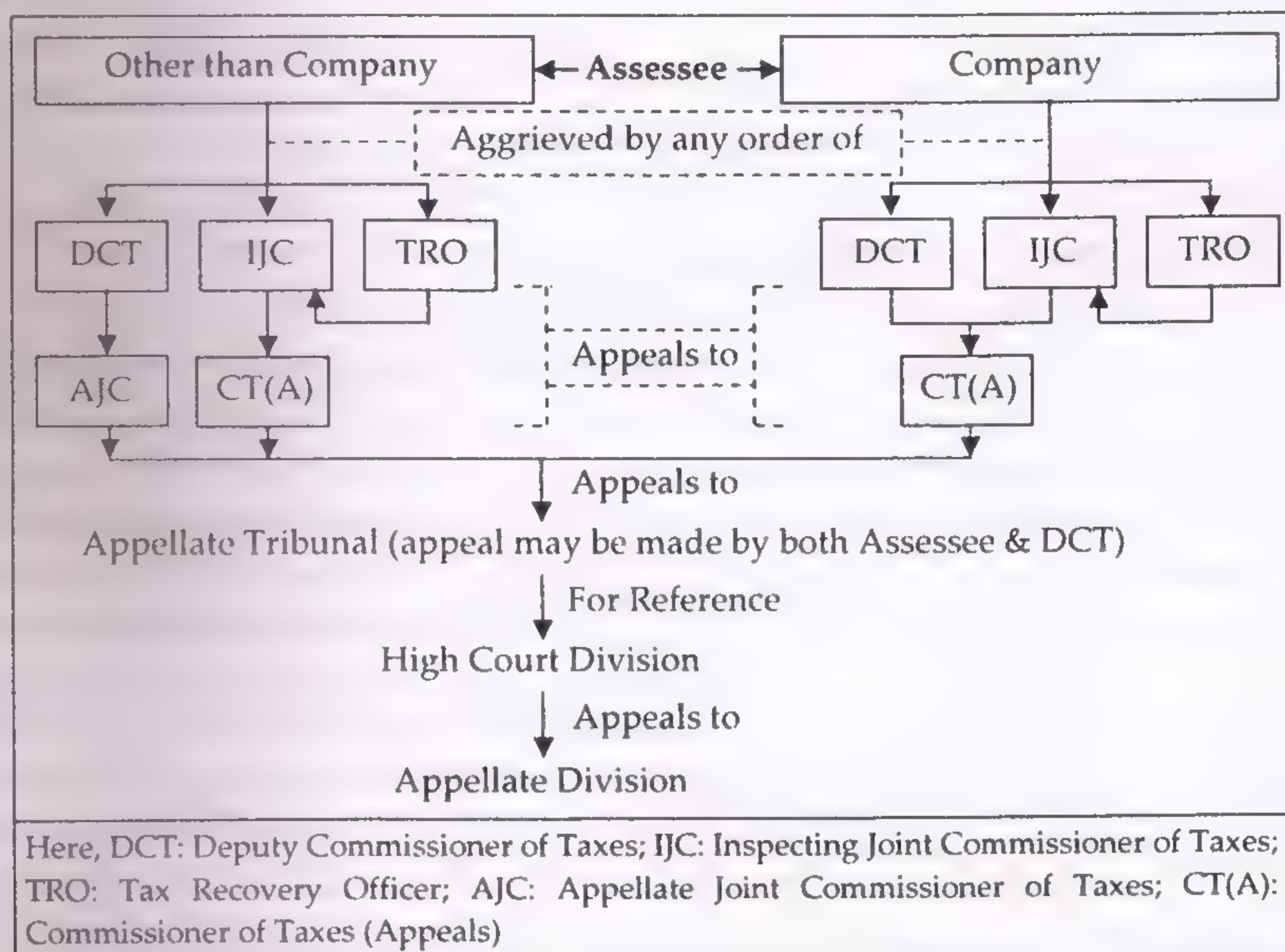


Figure: Procedure of Appeal

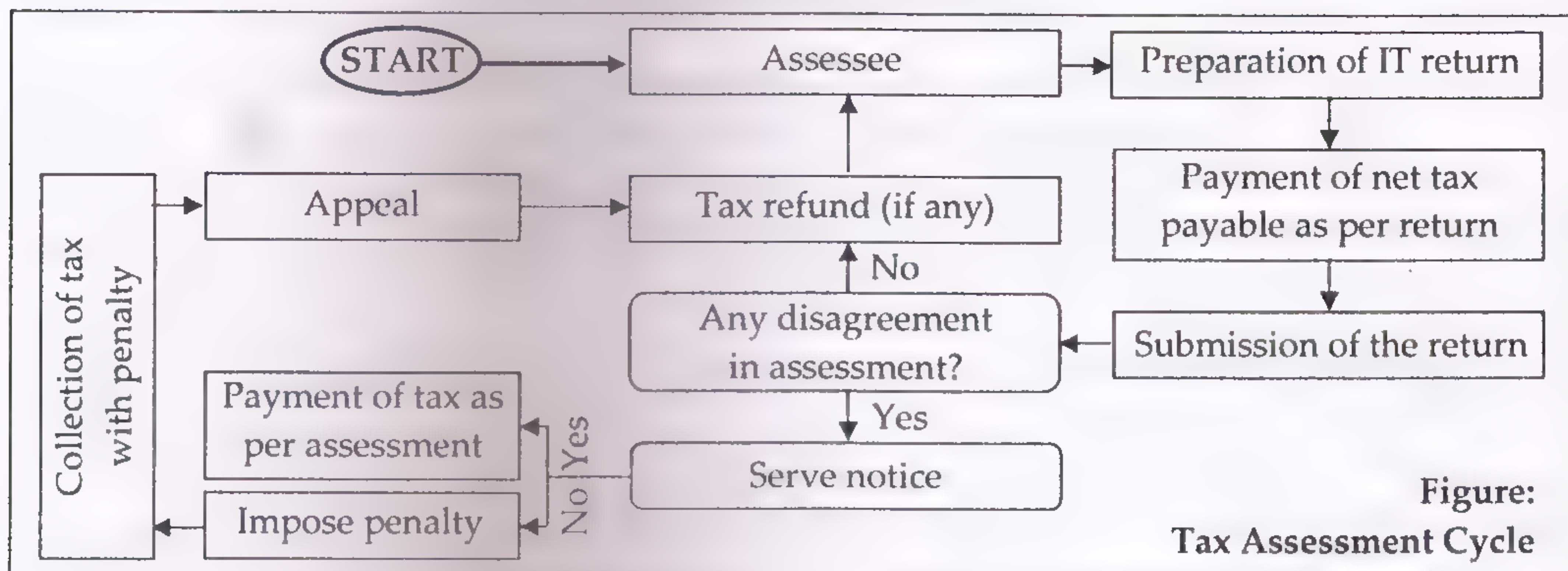
10. If the amount of tax paid becomes more than the taxes payable as per assessment, the assessee is entitled to be refunded. Chapter 18 of IT Ordinance 1984 deals with refunds. As the assessee is required to pay tax before the annual assessment by way of tax deducted at sources (TDS), Advance Income Tax (AIT), payment of tax at the time of filing return, payment of tax due to demand notice; the total amount of tax paid may be higher than the amount of tax to be paid.

Refund may also become due as a result of any order passed in appeal (U/s - 149). However, tax authority may adjust the amount of such refund against other direct taxes (say, gift tax, wealth tax) as payment of tax payable under sections 64 or 74 thereof.

18.3 TYPES OF ASSESSMENT

In a tax assessment cycle, assessment is a very important step and chapter 9 (Sec 81 to 94) of IT Ordinance 1984 is fully dedicated for assessment. Assessment may be provisional and regular. A classification is given below:

in case of spot assessment (discussed later), the function is initiated by the DCT (U/s – 82A). The steps are pointed out below in a simplified manner.



1. The assessee is required to fill up Income Tax Return under section 75(2). Under Rule 24, the Specimen of Form of Return of Income is followed.
2. Then the assessee is required to compute net tax liability payable by him to the government. The computation is based on the taxable income as shown in income tax return reduced by tax deducted at source (TDS), advance income tax (AIT), tax rebate on investment allowance. At the time of submitting income tax return, the assessee is required to submit documents to show that the tax as computed has already been paid through challan in Bangladesh Bank or Sonali Bank.
3. Once the return is filled up and calculated tax is paid accordingly, the assessee is now required to submit the return to the DCT.
4. Now, the DCT will check the return submitted by the assessee for accuracy. This is called the assessment which may be provisional or regular. If the DCT is satisfied and the assessment process is complete then the DCT will issue an assessment order to the assessee.
5. If the assessment made by the DCT results more tax to be paid by the assessee he will issue a demand notice for the same under section 135 in specified form. If the assessee fails to pay the amount of additional tax within the time, he will be treated as 'assessee in default' and legal actions can be taken against him for collecting tax.
6. After receiving the demand notice from the DCT, the assessee may demand more time from the DCT or may also apply for payment of such additional tax in installment. Then, the assessee is required to pay such tax within the extended time or in installment as per the direction of the DCT.
7. The DCT may impose penalty due to the non-compliance in any manner, say, not abided by the demand notice, violence of any section of the ordinance, non-submission of required documents, non-payment of tax as revised etc. The nature and extent of penalty depends on the type of non-compliance and will be guided by chapter 15 (Sec 123 to 133) and 21 (sec 164 to 171) in most of the cases.
8. Once the penalty is imposed, the assessee is required to pay penalty with the amount of tax (if unpaid). Chapter 16 (sec 134 to 143) of IT Ordinance 1984 explains different prescriptions in this regard. As per sec 134, tax includes any sum imposed, levied or otherwise payable under this Ordinance as penalty, fine, interest, fee or otherwise; and the provisions of the chapter shall accordingly apply to the recovery of any such

sum. The process starts with serving notice of demand (U/s - 135) in the prescribed form specifying therein the sum payable and the time within which, and the manner in which, it is payable, together with a copy of an assessment order. If the assessee failed to pay tax within the time specified, he will be deemed to be in default and in such circumstances; the Deputy Commissioner of Taxes may forward to the Tax Recovery Officer a certificate for recovery of the tax, under his signature specifying the amount of arrears due from the assessee (U/s - 138). Such recovery may also be made by Collector of District (U/s - 142), Special Magistrate (U/s -142A).

9. Any assessee, if aggrieved, may appeal to higher tax authority in line with the sections 153 to 162 of Chapter 19 of IT Ordinance 1984. The sequence in appeal is given in the following figure.

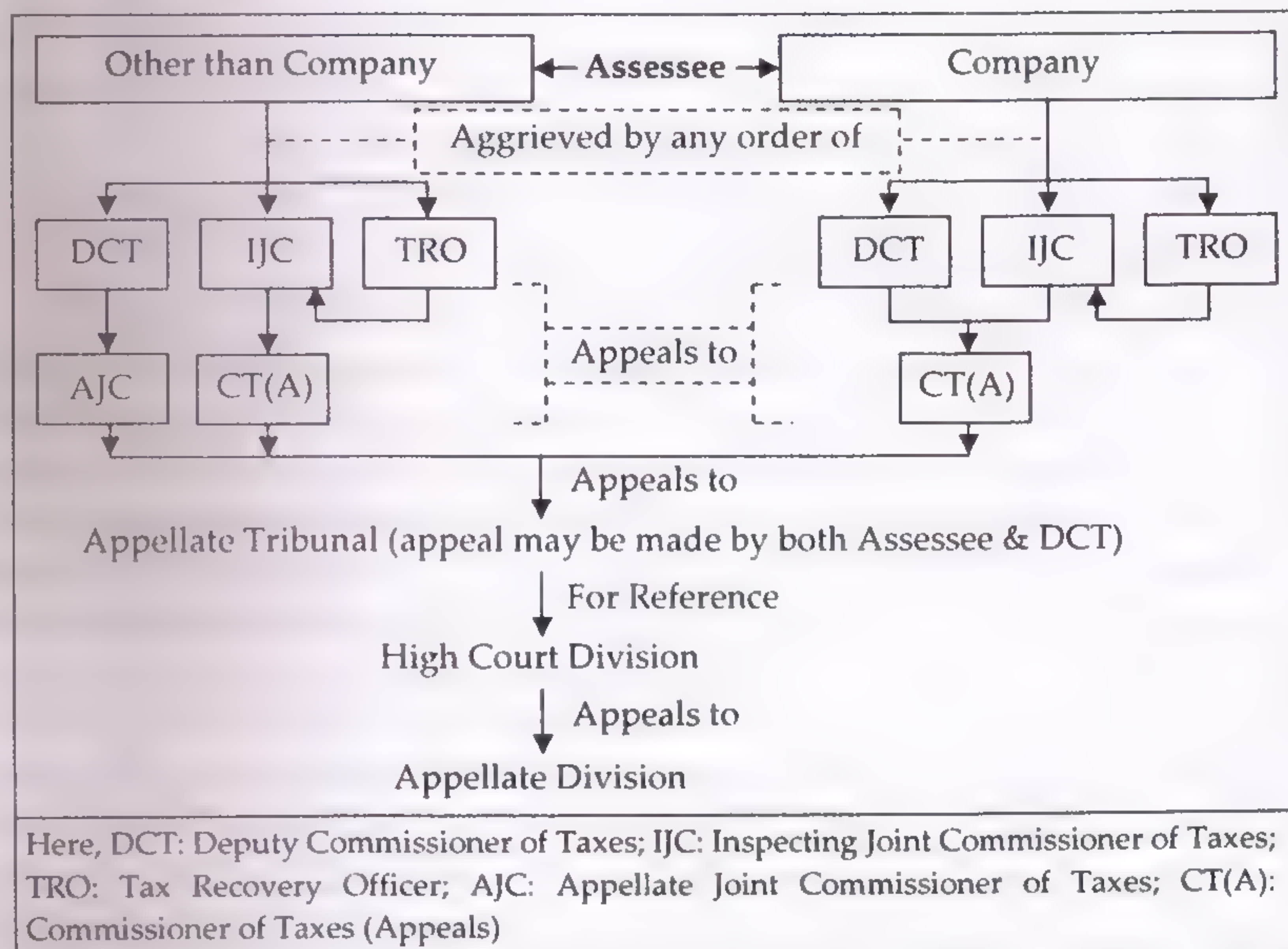


Figure: Procedure of Appeal

10. If the amount of tax paid becomes more than the taxes payable as per assessment, the assessee is entitled to be refunded. Chapter 18 of IT Ordinance 1984 deals with refunds. As the assessee is required to pay tax before the annual assessment by way of tax deducted at sources (TDS), Advance Income Tax (AIT), payment of tax at the time of filing return, payment of tax due to demand notice; the total amount of tax paid may be higher than the amount of tax to be paid.

Refund may also become due as a result of any order passed in appeal (U/s - 149). However, tax authority may adjust the amount of such refund against other direct taxes (say, gift tax, wealth tax) as payment of tax payable under sections 64 or 74 thereof.

3.3 TYPES OF ASSESSMENT

In a tax assessment cycle, assessment is a very important step and chapter 9 (Sec 81 to 94) of IT Act, 1961 is fully dedicated for assessment. Assessment may be provisional and regular. A brief classification is given below:

TYPES OF ASSESSMENT	Provisional Assessment		Sec. 81
	Regular Assessment	Assessment on new return Assessment under simplified procedure Universal self assessment Spot Assessment Assessment after hearing Assessment on the basis of a report of a CA Best judgment assessment Income escaping assessment	Sec. 82 Sec. 82A Sec. 82BB Sec. 82D, Rule 38B Sec. 83 Sec. 83AAA Sec. 84 Sec. 93
	Final Settlement	Assessment in case of partition of a HUF Assessment in case of persons leaving Bangladesh Assessment in case of income of a deceased person	Sec. 90 Sec. 91 Sec. 92

Figure: Types of Assessment

18.4 PROVISIONAL ASSESSMENT (U/S - 81)

The DCT may make a provisional assessment of the tax payable by the assessee on the basis of the return as filed and the accounts and documents accompanying it and where no return has been filed, on the basis of the last assessment. Such an assessment may be made at any time after the first day of July of the year in a summary manner [U/s – 81(1)]. For the purposes of payment and recovery, the tax as determined to be payable upon provisional assessment shall have effect as if it were determined upon regular assessment [U/s – 81(3)]. Any amount paid or deemed to have been paid towards provisional assessment under this section shall be deemed to have been paid towards regular assessment; and the amount paid or deemed to have been paid towards provisional assessment in excess of the amount found payable after regular assessment shall be refunded to the assessee [U/s – 81(5)]. Such assessment is disadvantageous to the assessee as he will have no right of appeal against a provisional assessment [U/s – 81(7)]. The assessee would have to wait till the regular assessment is made and then take proceedings before the appellate authorities. But, in the meanwhile, and before the regular assessment is made, the tax may be recovered from the assessee as it was determined on regular assessment.

18.5 ASSESSMENT ON NEW RETURN (U/S - 82)

Where a return or a revised return has been filed under Chapter VIII and the Deputy Commissioner of Taxes is satisfied, without requiring the presence of the assessee or the production of any evidence, that the return is new and complete, he shall assess the total income of the assessee and determine the sum payable by him on the basis of such return and communicate the assessment order to the assessee within thirty days next following.

Exceptions: If the assessee is a company not less than thirty per cent of whose paid up capital is owned by persons other than Bangladeshis or a company incorporated by or under any law of a country outside Bangladesh or a public limited company or a body corporate established or constituted by or under any law for the time being in force, or any nationalized banking, insurance or other financial institution, the return shall be deemed to be new and complete if the return is accompanied by a certified copy of the accounts of the assessee audited by a chartered accountant and a certificate as to the correctness of the total income of the assessee signed and issued by the chartered accountant himself in the prescribed form. Such return shall be filed in the case of a company, by the fifteenth day of July next following the income year or, where the fifteenth day of

July falls before the expiry of six months from the end of the income year, before the expiry of such six months; and in all other cases, by the thirtieth day of September next following the income year; the amount of tax payable shall be paid on or before the date on which the return is filed; and such return does not show any loss or lesser income than the last assessed income, or assessment on the basis of such return does not result in refund.

18.6 ASSESSMENT UNDER SIMPLIFIED PROCEDURE (U/S – 82A)

Where, an assessee, other than a public limited company who has previously been assessed for any assessment year ended on or before the thirtieth day of June, 1995, files a return showing income for the income year relevant to the assessment year commencing on or after the first day of July, 1995 and ending on or before the thirtieth day of June, 1997 and the income shown in such return is higher by not less than ten per cent over the last assessed income and has also increased by at least a further sum of ten per cent for each preceding assessment year in respect of which the assessment is pending, the return filed by the assessee shall be deemed to be new and complete, and the Deputy Commissioner of Taxes shall assess the total income of the assessee on the basis of such return and determine the tax payable by him on the basis of such assessment, and communicate the assessment order to the assessee within thirty days next following. The assessee is required to make payment of the tax on the basis of the return or taka twelve hundred, whichever is higher, at the time of filing such return and the assessment on the basis of such return shall not result in any refund. At the same time, the net accretion of his wealth, if he is required to submit statement of assets and liabilities under section 75 (2) (d), along with his disclosed family expenses and taxes paid during the year, shall not exceed the income disclosed for the year and the income or receipt, if any, exempted from tax. Such return contains twelve-digit Taxpayer's Identification Number (TIN).

18.7 UNIVERSAL SELF ASSESSMENT (U/S – 82BB)

Where an assessee files a return of income mentioning twelve-digit Taxpayers Identification Number (TIN) in compliance with the conditions and within time specified in section 75 and pays tax in accordance with section 74, he shall be issued by the Deputy Commissioner of Taxes or any other official authorised by him, an acknowledgement of receipt of the return and such acknowledgement shall be deemed to be an order of assessment of the Deputy Commissioner of Taxes [U/s – 82BB (1)].

On receipt of such return under sub-section (1), the Deputy Commissioner of Taxes shall –

- (a) Process such return in the following manner, namely:
 - (i) the income shall be computed after making the adjustments in respect of any arithmetical error in the return and any incorrect claim, if such incorrect claim is apparent from the existence of any information in the return and the statements and documents submitted therewith;
 - (ii) the tax shall be computed on the basis of the income computed under sub-clause (i);
 - (iii) the sum, payable by or refundable to the assessee, shall be determined after giving credit of the sum paid by way of advance tax including the tax paid at source and the tax paid under this Ordinance.
- (b) Where the process of return results in a difference in the amount of income, tax or other material figures than the amount mentioned in the return filed, the Deputy Commissioner of Taxes shall serve a notice to the assessee –
 - (i) communicating him about the difference and enclosing a sheet of computation of income, tax, refund or other related particulars that resulted from the process of return;

- (ii) giving him an opportunity to explain his position in writing within the time specified in the notice; and
- (iii) giving him an opportunity to file an amended return within the time specified in the notice and pay the tax and any other amount that becomes payable as a result of the process;

Explanation: For the purposes of this section, “an incorrect claim apparent from the existence of any information in the return” shall mean a claim, on the basis of an entry, in the return

- (i) of an item, which is inconsistent with another entry of the same, or some other item, in such return; or
- (ii) in respect of a deduction, exemption, rebate or credit, where such deduction exemption, rebate or credit, exceeds the specified statutory limit which may have been expressed as monetary amount, percentage, ratio or fraction.

Where a notice is served under this section, the Deputy Commissioner of Taxes shall send a letter of acceptance of amended return within sixty days where (i) an amended return is filed; (ii) any tax or any other amount, payable under this Ordinance as a result of the process, has been paid on or before the submission of the amended return; and (iii) the difference has been duly resolved in the return. If these are not fulfilled, the DCT will serve, after the expiry of the date of response of the assessee as mentioned in the notice, a notice of demand along with a sheet of computation of income, tax, refund or other related particulars within six months from the date of serving notice.

Where the assessee finds that owing to any unintentional mistake the tax or any other amount payable under this Ordinance has been paid short or computed short by reasons of underreporting of income or overreporting of rebate, exemption or credit or for any other reasons, he may file to the Deputy Commissioner of Taxes an amended return, (a) attaching with the amended return a written statement mentioning the nature and the reason for the mistake; (b) paying in full the tax and any other amount that was paid short or computed short; and an interest at the rate of two percent (2%) per month on the amount and if the Deputy Commissioner of Taxes is satisfied that the amended return is filed in compliance with the conditions, he may allow the amended return. Provided that no amended return shall be allowed (a) after the expiry of one hundred and eighty days from the date of filing the original return; or (b) after the original return has been selected for audit under sub-section (7) [U/s – 82BB (5)].

The Board or any authority subordinate to the Board, if so authorised by the Board in this behalf, may select, in the manner to be determined by the Board, a number of returns, and refer the same to the Deputy Commissioner of Taxes for the purpose of audit. Provided that a return filed or an amended return accepted or allowed under this section shall not be selected for audit where, (a) such return or amended return shows at least fifteen percent (15%) higher total income than the total income assessed in the immediately preceding assessment year; and (b) such return or amended return is accompanied by corroborative evidence in support of income exempted from tax; it is accompanied by a copy of bank statement or account statement, as the case may be, in support of any sum or aggregate of sums of loan exceeding taka five lakh taken other than from a bank or financial institution; it does not show the receipt of gift during the year; it does not show any income which is subject to tax exemption or reduced tax rate under section 44; or it does not show or result any refund [U/s – 82BB (7)].

Where after conducting the audit the Deputy Commissioner of Taxes is satisfied that the affairs of the assessee has not been duly reflected in the return or the amended return or in statements and

documents submitted therewith, he shall communicate the findings of the audit to the assessee and serve a notice requiring him to file a revised return reflecting the findings of the audit, and pay tax and any other applicable amount on the basis of the revised return on or before the filing of such revised return [U/s – 82BB (8)]. Where a revised return is filed and the Deputy Commissioner of Taxes is satisfied that the findings of audit has been duly reflected in the revised return and the tax and any other applicable amount have been fully paid, he may accept the revised return and issue a letter of acceptance to the assessee [U/s – 82BB (9)]. However, if these are not properly complied with, the Deputy Commissioner of Taxes shall proceed to make assessment under section 83 or 84, whichever is applicable.

In the case of a return submitted under sub-section (1), no question as to the source of initial capital of the business or profession of a new assessee shall be raised, if the assessee (a) shows income which exceeds the tax exemption threshold and which is not less than twenty percent (20%) of the initial capital invested in the business or profession; (b) pays tax on such income at regular tax rate along with any other applicable amount on or before filing of return; and (c) mentions in writing that the return falls under this subsection [U/s – 82BB (11)]. In this case, the minimum amount of capital maintained in the business or profession at the end of the income year and four subsequent income years shall be equal to the initial capital; and any amount of shortfall of the capital in any income year shall be deemed as "income from business or profession" for that income year and shall be included in total income of the assessee [U/s – 82BB (12)].

18.7 SPOT ASSESSMENT (U/S – 82D)

An assessee, other than a company, if not assessed earlier and carrying on any business or profession in any shopping centre or commercial market or having a small establishment, the DCT may fix the tax payable by him in such manner and at such rate as may be prescribed and the receipt obtained for payment of such tax shall be deemed to be an order of assessment u/s 82.

18.7.1 Procedure for spot assessment (Rule – 38B) –

1. An assessee, referred to in section 82D of the Ordinance, claiming adjustment for any tax deducted or collected under chapter VII of the Ordinance or having wholesale business or having initial capital investment exceeding fifteen lac taka or carrying on profession as a lawyer or a doctor for a period exceeding ten years shall not be eligible for assessment under that section.
2. The DCT, with the prior approval of the IACT or IJCT, shall chalk out a program to visit any shopping centre or commercial market or an area where such establishments are located and accordingly visit such centre, market or area and fix the tax on an assessee referred in sec. 82D of the Ordinance for any year at the rates:
 - (a) Where an assessee carrying on business-

	Initial Capital Investment to be shown	Rate of Tax	Applicable For the assessee:
(i)	Upto Tk. 600,000	Tk. 3,000	not located under any city corporation or paurashava of district headquarters
(ii)	Upto Tk. 700,000	3,500	located at Paurashava in district head-quarters and other area excluding city corporation
(iii)	Upto Tk. 800,000	4,000	of any area
(iv)	Upto Tk. 1,000,000	5,000	of any area
(v)	Upto Tk. 1,500,000	10,000	of any area

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(b) Where an assessee carrying on profession as a lawyer or doctor-

	Length of Profession	Rate of Tax	Applicable For the assessee
(i)	Upto 3 years	Tk. 3,000	not located under any city corporation or paurashava of district headquarters;
(ii)	Upto 4 years	3,500	located at Paurashava in district headquarters and other area excluding city corporation;
(iii)	Upto 5 years	4,000	of any area
(iv)	Upto 10 years	5,000	of any area

3. The assessee shall, with the help of the DCT, fill up a return of income in form IT-11GAGA as prescribed in sub-rule (1aaa) of rule 24, which can had from the DCT, and submit the same to the DCT on the spot.
4. The tax fixed under sub-rule (2) shall remain in force for two subsequent assessment years, and the receipt of the payment of such tax shall be deemed to be an order of assessment under section 82 of the Ordinance.

18.7.2 Format of the Form of return of income under Section 82D:

Form of return of income under the Income-tax
Ordinance, 1984 (Ord. XXXVI OF 1984)
(Return under section 82D)

IT-11GAGA

1. Name of the Assessee:
2. Present Address:
.....
3. Father's/husband's name:.....4. Mother's Name:.....
5. Date of Birth:.....6. Mobile/Telephone:.....7. e-mail (if any):.....
8. National ID No (if any) 9. Nature of Business/Profession:.....
10. TIN/UTIN:

--	--	--	--	--	--	--	--	--	--	--	--
11. (a) Circle: (b) Taxes Zone:
12. Assessment Year: 13. Status: Individual/Firm/AOP (please tick)
14. Total income : Tk.
15. Net tax payable : Tk.
16. Tax paid on the basis of this return : (a) Amount (in figure):
(b) Pay order/challan No.:
(c) Date:

Verification

I father/husband
UTIN/TIN: solemnly declare that to the best of my knowledge
and belief the information given in this return is correct and complete.

Place:

Date :

Signature of the Assessee

N. B. Please see the brief instructions overleaf before filling up the return.

✕.....

Chapter - 18: Assessment

Brief Instructions for calculating income of an individual assessee

If required, please get help from Income-tax Ordinance, 1984 (Ord. XXXVI OF 1984),
and Income Tax Rules, 1984.

Sl No.	Head of Income And Description	Amount In Tk.												
1.	Income from business/profession: (a) Total sale/receipts/commission (As per section 28): (b) Total expenses of business or profession (As per manufacturing/trading/profit-loss accounts) (section 29): (c) Net profit/income [(a)-(b)]:													
2.	<p style="text-align: center;"><u>Rate of tax</u></p> <p>In case of business:</p> <table><tr><td><u>Capital limit</u></td><td><u>Payable Tax</u></td></tr><tr><td>(a) up to taka 6 lakh</td><td>Tk. 3,000/-</td></tr><tr><td>(b) up to taka 7 lakh</td><td>Tk. 3,500/-</td></tr><tr><td>(c) up to taka 8 lakh</td><td>Tk. 4,000/-</td></tr><tr><td>(d) up to taka 10 lakh</td><td>Tk. 5,000/-</td></tr><tr><td>(e) up to taka 15 lakh</td><td>Tk. 10,000/-</td></tr></table>	<u>Capital limit</u>	<u>Payable Tax</u>	(a) up to taka 6 lakh	Tk. 3,000/-	(b) up to taka 7 lakh	Tk. 3,500/-	(c) up to taka 8 lakh	Tk. 4,000/-	(d) up to taka 10 lakh	Tk. 5,000/-	(e) up to taka 15 lakh	Tk. 10,000/-	
<u>Capital limit</u>	<u>Payable Tax</u>													
(a) up to taka 6 lakh	Tk. 3,000/-													
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(c) up to taka 8 lakh	Tk. 4,000/-													
(d) up to taka 10 lakh	Tk. 5,000/-													
(e) up to taka 15 lakh	Tk. 10,000/-													

	In case of profession:	
	<u>Length of profession</u>	<u>Payable Tax</u>
	(a) up to 3 years	Tk. 3,000/-
	(b) up to 4 years	Tk. 3,500/-
	(c) up to 5 years	Tk. 4,000/-
	(d) up to 10 years	Tk. 5,000/-
	Income is to be calculated as per existing rate of tax.	
3.	Net tax payable:	

✕

Acknowledgement Receipt

Serial No. in return register:.....Date of submission of Return:.....
 Received income tax return from Mr./Mrs..UTIN/TIN.....
 For the Assessment year:.....Income shown in the return Tk.
 And tax paid Tk.



Signature of
 The Deputy Commissioner of
 Taxes/Officer in Charge
 Circle....., Taxes Zone.....

115 ASSESSMENT AFTER HEARING (U/S - 83)

If the DCT is not satisfied with the return filed by an assessee without requiring the presence of the person who filed the return or the production of evidence that the return is correct and complete, he shall serve a notice requiring the assessee to appear before the DCT within a specified time, or to produce or cause to be produced before him any evidence in support of the return [U/s 83(1)]. Where the DCT has reason to believe that the return is false, incorrect or incomplete, he cannot purport to compute the income without issuing a notice under this sub-section. *Karidas & Sons v. CIT* 213).

The choice as to whether the assessee should attend the office of the DCT or whether he produce or cause to be produced any evidence in support of his return lies with the assessee and not with the department. Thus, a notice under this subsection which merely calls upon the assessee to attend the office of the DCT and does not give him the choice of producing or causing to be produced any evidence on which he merely rely in support of the return, is therefore invalid (*Rajmani Devi v. CIT 1937 ITR631*). The power of the DCT under this sub-section is not confined to issuing one notice only; he may issue further notices requiring the assessee to produce evidence on specific points (*In re Lachhman Das Narain Das 2ITC1,3*).

The DCT shall, after hearing the person appearing, or considering the evidence as produced and also considering such other evidence, if any, as he may require on specified points, by an order in writing assess, within thirty days after the completion of the hearing or consideration, as the case may be, the total income of the assessee and determine the sum payable by him on the basis of such assessment, and communicate the order to the assessee within thirty days next following.

18.9 ASSESSMENT ON THE BASIS OF REPORT OF A CHARTERED ACCOUNTANT (U/S – 83AAA)

Where a return or revised return is filed by an assessee being a company and the Board has reasonable cause to believe that the return or revised return is incorrect or incomplete, the Board may appoint a registered chartered accountant to examine the accounts of that assessee [U/s – 83AAA (1)].

The chartered accountant so appointed shall exercise the powers and functions of the Deputy Commissioner of Taxes as referred to in section 79 and clauses (a), (b), (c), (d) and (e) of section 113 [U/s – 83AAA (2)]. After examining the accounts, the chartered accountant shall submit a report in writing to the Board along with findings within a time as may be specified by the Board. Then, the Board shall forward the report to the concerned Deputy Commissioner of Taxes for consideration.

On receipt of the report, the Deputy Commissioner of Taxes shall serve a notice upon the assessee [U/s – 83AAA (5)]. The Deputy Commissioner of Taxes shall, after hearing the person appearing and considering the evidences produced including the findings stated in the report and also considering the other evidences, by an order in writing, assess within thirty days after the completion of hearing or consideration, as the case may be, the total income of an assessee and shall determine the sum payable by the assessee on the basis of such assessment, and communicate the said order to the assessee within thirty days from the date of such order.

18.10 BEST JUDGMENT ASSESSMENT (U/S - 84)

This section provides that the DCT shall make the assessment to the best of his judgment in three cases. The terms of the section are mandatory: the DCT has no discretion to make or not to make an assessment under this section (*Abdul Baree Chowdhury v. C.I.T.5 I.T.C. 352, 357-8(F.B.)*; *C.I.T. v. Laxminarain Badridas 1937 I.T.R. 170, 197, (P.C.)*). The three cases where a best judgment assessment has to be made are, where any person fails;

- (a) to file the return required by a notice under section 77 and has not filed a return or revised return under section 78 ; or

- (b) to comply with the requirements of a notice under section 79 or 80 ; or
- (c) to comply with the requirements of a notice under section 83(1);

The DCT shall, by an order in writing, assess the total income of the assessee to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment; and communicate such order to the assessee within thirty days next following. Where in the opinion of the Board a best judgment assessment made by a Deputy Commissioner of Taxes shows lack of proper evaluation of legal and factual aspects of the case which has resulted in an arbitrary and injudicious assessment, the action leading to such assessment made by the said Deputy Commissioner of Taxes shall be construed as misconduct [U/s – 84 (2)].

18.11 ASSESSMENT IN CASE OF INCOME ESCAPING ASSESSMENT, ETC.

If, based on the information from an audit, assessment or any other proceeding under this Ordinance or from any other source, the Deputy Commissioner of Taxes has reason to believe that any sum payable by an assessee under this Ordinance has escaped payment in any assessment year, the Deputy Commissioner of Taxes may issue a notice in the form specified by the Board upon the assessee requiring him to file for the relevant assessment year, within the time as specified in the notice, a return of his income along with the applicable statement and documents; and pay on or before the filing of the return the sum that has been escaped payment [U/s – 93(1)].

The Deputy Commissioner of Taxes shall send a letter of acceptance of the return where (i) the return is filed within the time mentioned in the notice and in compliance with the provisions of that sub-section; (ii) the sum that escaped payment has been paid on or before the filing of the return; and (iii) the issue for which the sum escaped payment has been duly addressed in the return. If these are not fulfilled, the DCT will proceed to make assessment under section 83 or 84, as the case may be [U/s – 93(2)]

A notice under sub-section (1) may be issued by the Deputy Commissioner of Taxes (a) at any time where, for the relevant assessment year, no return was filed and no assessment was made; (b) within six years from the end of the relevant assessment year where, for the relevant assessment year, no return was filed but assessment is completed; (c) within five years from the end of the relevant assessment year in any other cases,

In this section, any sum payable by an assessee under this Ordinance shall be deemed to have escaped payment if –

- (i) the income or a part thereof has escaped assessment; or
- (ii) the income has been understated; or
- (iii) excessive loss, deduction, allowance or relief in the return has been claimed; or
- (iv) the liability of tax or any other amount payable under this Ordinance has been shown or computed lower by concealment or misreporting of any income or by concealment or misreporting of any assets, expenditure or any other particulars in a statement submitted under section 80; or
- (v) income chargeable to tax has been under-assessed, or income has been assessed at a lower than due tax rate; or
- (vi) income that is subject to tax has been made the subject of tax exemption; or
- (vii) income has been made the subject of excessive relief, or excessive loss or depreciation allowance or any other allowance under this Ordinance has been computed; or
- (viii) a tax or an amount, payable under this Ordinance, has been computed or paid lower than due amount by reason of lower base.

18.12 ASSESSMENT IN CASE OF PARTITION OF A HINDU UNDIVIDED FAMILY (U/S - 90)

If any member of a Hindu Undivided Family (HUF), at the time of an assessment, claims that a partition has taken place amongst the members of the family, the Deputy Commissioner of Taxes shall make an enquiry after giving notice to all the members of the family. On the completion of the enquiry, the Deputy Commissioner of Taxes shall record a finding as to whether there has been a partition of the joint family property, and, if there has been such a partition, the date on which it has taken place. If the partition took place after the expiry of the income year, the total income of the income year of the undivided family shall be assessed as if no partition has taken place; and each member or group of members of the family shall, in addition to any tax for which he or it may be separately liable, be jointly and severally liable for the tax on the income of the family so assessed [U/s – 90(4)].

But, if the partition took place during the income year, the total income of the undivided family in respect of the period up to the date of partition shall be assessed as if no partition had taken place; and each member or group of members of the family shall, in addition to any tax for which he or it may be separately liable, be jointly and severally liable for the tax on the income of that period as so assessed [U/s – 90(5)].

If the Deputy Commissioner of Taxes finds after completion of the assessment of a HUF that the family has already effected a partition, the tax shall be recoverable from every person who was a member of the family before the partition; and every such person shall be jointly and severally liable for tax on the income of the family so assessed [U/s – 90(6)].

18.13 ASSESSMENT IN CASE OF PERSONS LEAVING BANGLADESH (U/S - 91)

If any person leaves Bangladesh during the current financial year or shortly after its expiry and if he has no intention of returning, an assessment may be made in that year on the basis of the total income of such person –

- (a) if he has been previously assessed, for the period from the expiry of the last income year of which income has been assessed to the probable date of his departure from Bangladesh; and
- (b) if he has not been previously assessed, of the entire period of his stay in Bangladesh up to the probable date of his departure.

The DCT may serve a notice to the person concerned to file within a time specified in the notice,

- (a) a return in the same form and verified in the same manner as a return under section 75 setting forth, along with such other particulars as may be required by the notice, his total income for each of the completed income years; and
- (b) an estimate of his total income for the period from the expiry of the last income year to the probable date of his departure from Bangladesh.

18.14 ASSESSMENT IN CASE OF INCOME OF A DECEASED PERSON (U/S - 92)

If a person dies, his legal representative shall be liable to pay any tax which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased; and the legal representative of the deceased shall be deemed to be an assessee who has been duly served a notice to that effect by the DCT. For the purposes of making an assessment of the income of the deceased and recovery of tax –

- (a) any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued from the stage at which it stood on the date of the death of the deceased ;and
- (b) any proceeding which could have been taken against the deceased, if he had not died, may be taken against the legal representative. However, the liability of legal representative shall be limited to the extent to which the estate of the deceased is capable of meeting the liability [U/s - 92(3)].

SELF REVIEW 18 - 1

Identify one basic feature of assessment procedure of (a) Spot assessment (b) Assessment after hearing (c) Assessment of deceased person and (d) Best judgment assessment

18.15 LIMITATION OF ASSESSMENT (U/S - 94)

If assessment is not done on regular basis in some specific situations, then it should be done within stipulated time as set in sec - 94. After that, assessment will not be valid. To reduce unusual delay and make the assessment accurate enough, this section sets time period within which the assessment should be completed. The situation with the time period is given in the table below:

Situations	Time Frame
1. If the assessment is to be made as a result of audit under section 82BB [U/s - 94(1)(a)]	Within two years form the end of the assessment year in which the income was first assessable
2. If the assessment is to be made under section 107C [U/s - 94(1)(b)]-	Within three years form the end of the assessment year in which the income was first assessable;
3. If the assessment is to be made in a case other than the cases mentioned in clause (a) or (b) above [U/s - 94(1)(c)]	Within six months form the end of the assessment year in which the income was first assessable;
4. Assessment under section 93 may be made [U/s - 94(2)]	within two years from the end of the year in which notice under section 93(1) was issued
5. Any order or assessment may be made on the assessee or any other person in consequence of any finding or direction contained in an order under sections 120,121A, 156, 159, 161 or 162 or, in the case of a firm, an assessment to be made on a partner of a firm in consequence of an assessment made on the firm shall be made [U/s - 94(3)]	Within thirty days from the date on which the order was communicated and such revised order shall be communicated to the assessee within thirty days next following.
6. where an order of assessment has been set aside by any authority in that case the assessment shall be made [U/s - 94(3)]	within forty five days form the date on which the order was communicated to him

But, if the DCT fails to give effect to any finding or direction contained in an order referred to in sub-section (3) within the period stipulated therein, such failure of the DCT shall be construed as misconduct. [U/s – 94(4)]

18.16 ASSESSMENT – SOME OTHER BASIC ISSUES

18.16.1 Place of Assessment (U/s – 173A) –

Where the assessment will be done is a controversial issue and will be solved as per the provision of this section as given below:

Situation	Authority	Place
1. If an assessee carries on a business, profession or vocation at any place.	DCT	The area where business, profession or vocation situate
2. If an assessee carries on a business, profession or vocation at more than one place.	DCT	The area in which the principal place of business, profession or vocation situate.
3. In all other cases	DCT	The area of residence.

If any question regarding the place of assessment arises, it will be solved by the concerned commissioners and if they are not in agreement, by the National Board of Revenue provided that the assessee has been given an opportunity to represent his views.

18.16.2 Tax to be calculated to nearest taka (U/s - 175) –

In the determination of the amount of tax or of a refund, fractions of a taka, less than fifty poisha, shall be disregarded and fractions of a taka equal to or exceeding fifty poisha shall be regarded as one taka.

18.16.3 Receipts to be given (U/s - 176) –

A receipt shall be given for any money paid or recovered as tax under this Ordinance.

18.16.4 Bar of suits and prosecution, etc. (U/s - 182) –

- (a) No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Ordinance [U/s – 182(1)].
- (b) No suit, prosecution or other proceedings shall lie against any officer of the Government for anything in good faith done or intended to be done under this Ordinance [U/s – 182(2)].

18.16.5 Service of notice (U/s - 178) –

A notice, an assessment order, a form of computation of tax or refund or any other document may be served on the person named therein either by registered post or in the manner provided for service of a summons issued by a Court under the Code of Civil Procedure, 1908 (Act V of 1908).

Provided that where a authorized representative of the person as referred to in section 174 of this Ordinance such delivery shall be construed as service of such notice or document on the person himself.

The validity of any notice or of the service of any notice shall not be called in question after the return in response to the notice has been filed or the notice has been complied with [U/s – 178(3)]. The notice may be served to the following persons as mentioned below:

Chapter - 18: Assessment

Situation	Notices to Whom?
1. in the case of a firm or a Hindu undivided family	any member of the firm, or the manager or any adult male member of the family
2. in the case of a local authority or a company	principal officer
3. in the case of other body or association of persons	principal officer or any member thereof
4. in a case where a firm or association of persons is dissolved	any person who was a member of the firm or association
5. in a case where a business or profession is discontinued to which section 89 applies, if the business or profession discontinued was-	
i. that of an individual	the person whose income is to be assessed
ii. that of a company	the principal officer
iii. that of a firm or association of persons	any person who was a partner of such firm or a member of such association
6. in case of partition of a Hindu Undivided Family (HUF)	last manager or all adult members of the family.
7. in any other case, not being an individual	the person who manages or controls the affairs of the person or institution concerned.

KEY POINTS

1. Assessment is not mere calculation rather is a process
2. Once the return is filled up and calculated tax is paid accordingly, the assessee is required to submit the return to the DCT.
3. Provisional assessment may be made at any time after the July 1 of the year in a summary manner and the amount paid or deemed to have been paid towards provisional assessment in excess of the amount found payable after regular assessment shall be refunded.
4. Spot assessment is conducted by the DCT for an assessee, other than a company, if not assessed earlier and carrying on any business or profession in any commercial market.
5. The DCT can conduct assessment after hearing (by sending a notice) where he has reason to believe that the return is false, incorrect or incomplete.
6. Where a company files a return the Board believes that the return is incorrect or incomplete, the Board may appoint a registered CA to examine the accounts of that assessee.
7. DCT has no discretion to make or not an assessment under best judgment procedure.
8. If a person dies, his legal representative shall be liable to pay any tax which the deceased would have been liable to pay.
9. If an assessee carries on a business, profession or vocation at any place the DCT will conduct assessment in the area where business, profession or vocation situated.
10. Tax to be calculated to nearest taka.

Multiple choice questions:

1. For Universal Self Assessment which form is required to fill up –
 - (a) 11 Gha
 - (b) 11 GA
 - (c) 11 Kha
 - (d) 10 Ga
2. Tax should be paid in –
 - (a) Bangladesh Bank
 - (b) Sonali Bank
 - (c) Any Schedule Bank
 - (d) a or b
3. If the assessment made by the DCT results more tax to be paid by the assessee, what action the DCT cannot follow –
 - (a) issue a demand notice
 - (b) take legal actions
 - (c) can call him/her as 'assessee in default'
 - (d) none of the above
4. Assessee has no right to appeal against –
 - (a) Provisional assessment
 - (b) Spot assessment
 - (c) Best judgment assessment
 - (d) Assessment after hearing
5. Spot assessment is applicable for –
 - (a) Individual
 - (b) Large Company
 - (c) Small establishment
 - (d) Hindu undivided family
6. Who fix the amount of tax payable by an assessee –
 - (a) Tax recovery officer
 - (b) Deputy commissioner of taxes
 - (c) Commissioner of taxes
 - (d) Appellate tribunal
7. The rate of tax in spot assessment where an assessee carrying on business within the limits of any city corporation with initial investment up to Tk. 800,000 –
 - (a) Tk. 4,000
 - (b) Tk. 2,000
 - (c) Tk. 1,000
 - (d) Tk. 500
8. DCT should communicate tax liability in case of assessment after hearing within how many days with the assessee –
 - (a) 7 days
 - (b) 21 days
 - (c) 30 days
 - (d) Nothing specific

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9. Assessment on the basis of report of a Chartered Accountant is applicable for –
(a) Company assessee
(b) Individual assessee
(c) Partnership firm
(d) Hindu undivided family
10. Under which of the following case best judgment assessment is not possible: when any person fails –
(a) to file the return required by a notice under section 77
(b) to comply with the requirements of a notice under section 79 or 80
(c) to comply with the requirements of a notice under section 83(1)
(d) none of the above

Identify the following statements as True (T) or False (F):

1. IT 11 GA is the income tax return form.
2. Universal Self Assessment is applicable for individual assessee only.
3. If a person dies, his legal representative shall be liable to pay any tax of him/her.
4. No suit shall be brought in any Civil Court to set aside or modify any assessment made under income tax ordinance.
5. Company can appeal only to commissioner (appeal).

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

Question 11 – 1: “Assessment cycle is the steps required to complete the full assessment process” – explain.

Question 11 – 2: Explain different types of assessment with reference to different section of income tax ordinance, 1984.

Question 11 – 3: Make a comparative discussion among provisional assessment, assessment on the basis of correct return and best judgment assessment.

Question 11 – 4: What is self assessment? Explain the procedure of self assessment.

Question 11 – 5: What is best judgment assessment? Under what cases a best judgment assessment has to be made?

Question 11 – 6: What is the assessment procedure for –

- Hindu Undivided Family
- Persons leaving Bangladesh
- Deceased person

Question 11 – 7: “A notice may be served on the person therein named either by registered post with acknowledgement due or in the manner provided for service of a summons issued by a Court under the Code of Civil Procedure” – explain under different situation to whom notice should be served.

Question 11 – 8: Write short note on:

- Spot assessment
- Self assessment
- Assessment after hearing
- Universal self assessment

Answers:

Multiple choice questions		True/False
1. b	6. b	1. T
2. d	7. a	2. F
3. d	8. c	3. T
4. a	9. a	4. T
5. c	10. d	5. T

Self review 18 – 1:

Spot assessment	An assessee, other than a company, if not assessed earlier and carrying on any business or profession in any shopping centre or commercial market or having a small establishment, the Deputy Commissioner of Taxes may fix the tax payable by him.
Assessment after hearing	If the Deputy Commissioner of Taxes is not satisfied with the return filed by an assessee, he shall serve a notice requiring the assessee to appear before the Deputy Commissioner of Taxes within a specified time, or to produce before him any evidence in support of the return.
Assessment of deceased person	If a person dies, his legal representative shall be liable to pay any tax which the deceased would have been liable to pay.
Best judgment assessment	<p>The three cases where a best judgment assessment has to be made are, where any person fails;</p> <p>(a) to file the return required by a notice under section 77 and has not filed a return or revised return under section 78 ; or</p> <p>(b) to comply with the requirements of a notice under section 79 or 80 ; or</p> <p>(c) to comply with the requirements of a notice under section 83(1).</p>

CHAPTER – 18A

ASSESSMENT OF INDIVIDUALS

LEARNING OBJECTIVES

After studying Chapter 18A, you shall be able to understand:

- ✦ Scope and sources of total income for an individual assessee
- ✦ how to compute total income and tax liability
- ✦ non-assessable income for an individual assessee
- ✦ tax-credit income/investment allowances
- ✦ incomes on which tax is deducted at source
- ✦ income where grossing up is required

An “individual” is the only human being among the assesseees, enumerated in the Act. The term includes both a male and female. Every individual has to pay tax on his or her total income at the rate applicable during the assessment year. He receives income in various capacities and to pay tax on all incomes in whatever capacity he receives them, unless otherwise stated in the Act. He is required to pay tax not only on the income earned by him, but sometimes also on the income that is deemed to accrue or arise to him.

18A. 1 SCOPE AND SOURCES OF TOTAL INCOME

According to the provisions stated in the ITO, 1984, the scope of total income varies according to the residential status of an assessee. The total income is to be computed subject to the provisions of this ordinance. According to section 17(1) of the ITO 1984, Total income of a resident assessee includes:

1. Income received or deemed to be received in Bangladesh
2. Income accrues or arises or deemed to accrue or arise in Bangladesh
3. Income accrues or arises outside Bangladesh

But for a non-resident, only the income received or deemed to be received and income accrues or arises or deemed to accrue or arise in Bangladesh is to be included in the total income. According to section 20 of the ITO, 1984, these incomes are classified and computed on the basis of seven sources. But according to IT Rule – 24 it has been seen that in the “Specimen Form of Income under the ITO, 1984 – Part II” total 10 heads has been given. Those are:

- | | |
|---------------------------------------|--|
| 1. Salaries | 6. Share of Profit on Partnership Firm |
| 2. Interest on Securities | 7. Income from Spouse or Minor Child |
| 3. Income from House Property | 8. Capital Gains |
| 4. Agricultural income | 9. Income from other sources; and |
| 5. Income from Business or Profession | 10. Foreign Income |

While computing the income under the above heads, provisions regarding set-off and carry-forward, clubbing of incomes, exemptions and allowable deductions are considered for computing total taxable income under various heads. If the amount of total income exceeds minimum taxable income an individual has to pay income tax on the basis of specified rates. For the assessment year 2007 – 18, the limit of minimum taxable income is Tk. 2,50,000 (in case of women, elderly citizens more than 65 years old Tk. 3,00,000, for disable person, the limit is Tk. 4,00,000 and for gazetted wounded freedom fighters Tk. 425,000).

18A.2 COMPUTATION OF TOTAL INCOME AND TAX LIABILITY

Following steps are required in this connection:

- ⇒ Determining the residential status of the individual.
- ⇒ Computing the income under different heads and aggregate them, taking into account the exemptions and clubbing provisions. Thus total income is determined.
- ⇒ Tax liability is calculated at the prescribed rates. This is gross amount of tax.
- ⇒ Determining total amount of Tax-credit income / Investment Allowance.
- ⇒ Rebate from income tax is allowed on Tax-credit income / Investment Allowance at the prescribed rates.
- ⇒ From gross tax, Tax rebate on investment allowance and other relevant items, TDS, Advance payment of tax, if any paid, are deducted to arrive at the net tax payable.

18A.3 NON-ASSESSABLE INCOME AT A GLANCE

Those income which are not included in the computation of total income of an assessee, are non-assessable income. Incomes specified in Part A of the Sixth Schedule of the Income Tax Ordinance, 1984 and some other incomes specified in different SROs are exempt and excluded from the computation of total income subject to the limits, conditions and qualifications mentioned therein.

Lists of these incomes are enumerated below:

1. Any voluntary contributions received by a Religious or Charitable Institutions.
2. The income of a Local government.
3. Income of government provident funds
4. Special allowances received to meet expenses wholly for official duties.
5. Income received by the trustees on behalf of specified funds
6. Income of employees of Foreign Missions
7. Pension
8. Gratuity upto Tk. 2.5 crore.
9. Income from Tax-free Government Securities
10. Medical allowance up to lower of Tk. 120,000 or 10% of basic salary.
11. Interest on RPF upto 14.5% rate or one-third of basic salary, whichever is lower.
12. Income from owner's residential house.
13. Conveyance allowance upto Tk. 30,000, if no conveyance facility is provided.
14. House-rent allowance: Excess of actual over 50% of basic salary or Tk. 3,00,000 whichever is lower.
15. Receipts from Life Insurance Policy on maturity.
16. Income of foreign technicians, expert and advisor upto certain periods.
17. Receipts under Golden handshake.
18. Agricultural income upto Tk. 200,000 if it is only the source of assessee's income.
19. Dividend income amounted to Tk. 25,000.
20. Dividend from Unit and Mutual funds upto Tk. 25,000.
21. Foreign income if brought through banking channel.
22. Receipt from Worker's Participation Fund not exceeding Tk. 50,000.
23. Certain casual and non-recurring incomes like gift received on occasion of marriage, birthday, anniversary, gift for personal relation and affection etc.
24. Any income of the mutual fund of the person issuing such mutual fund.
25. Any income derived from software and IT business subject to prescribed conditions.
26. Any income derived from the export of handicrafts.
27. Income of any private agricultural college/universities.

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28. Income from any building, not less than 5 storied having at least 10 flats, situated in certain prescribed areas.
29. Any sum or aggregate of sums received as interest on pensioner's savings certificate where the total accumulated investment at the end of the relevant income year in such certificate does not exceed Tk. 500,000.
30. Income from manufacturing SME business with yearly turnover of max. Tk. 36 lacs.
31. Income from zero coupon bonds.
32. Income from newly constructed cinema hall or Cineplex subject to some conditions.
33. Income from rice bran oil production industry subject to some conditions.
34. An amount equal to 50% derived from the production of corn/maize or sugar beet;
35. Income of an assessee donated to any fund formed under the provisions of Thrust of Prime Minister's Education Assistance Act, 2012 subject to a maximum limit.
36. Interest or profit arising from Wage earners development bond, US dollar premium bond, US dollar investment bond, Euro premium bond, Euro investment bond, Pound sterling investment bond or Pound sterling premium bond.
37. Foreign income of a Bangladeshi citizen and brought any such income into Bangladesh as per existing laws applicable in respect of foreign remittance.
38. Income of an assessee donated in an income year by a crossed cheque to any girls' school or girls' college approved by the Ministry of Education of the government.
39. Income of an assessee donated in an income year by a crossed cheque to any Technical and Vocational Training Institute approved by the Ministry of Education.
40. Income of an assessee donated in an income year by a crossed cheque to any national level institution engaged in the Research & Development (R&D) of agriculture, science, technology and industrial development.
41. Any income from an alternative investment fund recognized by the BSEC.
42. Any income of the Bangladesh Securities and Exchange Commission (BSEC) for the Assessment Years starting from the 1.07.2017 to the 30.06.2022.
43. Any amount as an honorarium or allowance from Bangladesh Freedom Fighters Welfare Trust/any welfare allowance received by any person from the Government.
44. Any reward received by any person from the Government.
45. Any income derived from the operation of an elderly care home.

In addition to the above items, some more items have been declared as exempted from tax through SROs. In Chapter 5 of this book, the details of those items have been explained.

18A.4 LIST OF TAX-CREDIT INCOME / INVESTMENT ALLOWANCES

As per section 44(2)(b), a Resident and non-resident Bangladeshi assessee will get tax rebate from the amount of tax payable on his total income of the following amount:

Total Income	Amount of Credit (Tax rebate on Inv. All.)
(i) Of the total income does not exceed Tk. 10,00,000 (Ten lakh)	15% of the eligible amount
(ii) If the total income exceeds Tk. 10,00,000 (Ten lakh) but does not exceed Tk. 30,00,000 (Thirty lakh)	(i) 15% of the First Tk. 250,000 of the eligible amount; (ii) 12% on the rest of the eligible amount
(iii) If the total income exceeds Tk. 30,00,000 (Thirty lakh)	(i) 15% of the First Tk. 250,000 of the eligible amount; (ii) 12% of the next Tk. 500,000 of the eligible amount; (iii) 10% on the rest of the eligible amount

The eligible amount mentioned above shall be the lesser of:

- (i) The sums specified in all paragraphs excluding paragraphs 15 and 16 of Part B of the Sixth Schedule; or
- (ii) 25% of the total income excluding any income for which a tax exemption or a reduced rate is applicable u/s 44(4) or any income from any source or sources mentioned in section 82C(2)(a); or
- (iii) Tk. 15,000,000 (One crore and fifty lakh taka)

The following items should be considered as investment allowance to enjoy tax credit facility:

1. Life Insurance Premium paid for the assessee, spouse or minor child, provided that maximum limit will be 10% of the policy value.
2. Life Insurance Premium paid by a Hindu Undivided Family
3. Deduction from the salary of Government employee for deferred annuity
4. Assessee's contribution to Provident Funds to which the Provident Fund Act, 1925 applies.
5. Employer's and employee's contribution to a Recognized Provident Fund
6. Assessee's contribution to Superannuation Fund
7. Investment in Savings Certificate.
8. Contribution to Deposit Pension Scheme (DPS) upto Tk. 60,000.
9. Donation to a Charitable Hospital
10. Donation to Organizations set up for the welfare of retarded people
11. Donation to Zakat Fund
12. Contribution to Benevolent Fund and Group Insurance Scheme
13. Contribution to Aga Khan Development Network
14. Contribution to Philanthropic or Educational Institution
15. Any sum invested in the purchase of one computer (Upto Tk. 50,000) or one laptop (Upto Tk. 1,00,000) by an individual assessee
16. Contribution to a national level institution set up in memory of liberation war
17. Purchase of any stocks of shares of a company, mutual fund or debenture listed with any stock exchange.
18. Contribution to a national level institution set up in memory of Father of the Nation.
19. Purchase of Bangladesh Government Treasury Bond
20. Contribution to President's Relief Fund [SRO 254/L85]
21. Contribution to Prime Minister's Relief Fund [SRO 125/L91 dated 01.07.1991]
22. Contribution to Ahsania Mission Cancer Hospital [SRO 202/IT/2005 dated 06.07.2005]
23. Donation to The International Centre for Diarrhoeal Disease Research, Bangladesh (ICDDR,B) [SRO 232/IT/2006 dated 24.09.2006]
24. Contribution to Sylhet Diabetic Society, Islamia Eye Hospital and M. A. Ispahani Institute of Ophthalmology, Kidney Foundation; and National Heart Foundation of Bangladesh [SRO 109/IT/2006 dated 07.05.2006]
25. Contribution to Child Health Foundation Hospital; Child Hospital, Jessore; Hospital for Sick Children, Sathkhira (Run by Child Health Foundation, Bangladesh); Digonto Memorial Cancer Hospital, Dhaka; The ENT & Head-Neck Cancer Foundation of Bangladesh, Dhaka; and National Development Foundation for Disableds', Dhaka [SRO 316-AIN/2008 dated 18.11.2008]
26. Donation to Centre for the Rehabilitation of the Paralysed (CRP), Savar [SRO 42-AIN/IT/2008 dated 24.02.2008]

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27. Donation to Dhaka Community Hospital [SRO 92-AIN/2008 dated 10.04.2008]
28. Contribution to Jatir Janok Bangabondhu Sheikh Mujibur Rahman Memorial Trust, Dhaka; Rafatullah Community Hospital (RCH), Thengamara, Bogra; and Salvation for the Deserving (SFD), Manikgonj [SRO 33-AIN/2009 dated 09.03.2009]
29. Contribution to Asiatic Society of Bangladesh, Ramna, Dhaka [SRO 32-AIN/2009 dated 09.03.2009]
30. Donation to Muktijuddho Jadughor, 5, Segunbagicha, Dhaka [SRO 116-AIN/IT/2010 dated 21.04.2010]
31. Donation to "Society for Assistance to Hearing Impaired Children (SAHIC) [SRO 11 AIN/IT/2011 dated 10.01.2011]
32. Donation to A. K. Khan Health Care Trust [SRO 218-AIN/IT/2011 dated 04.07.2011]
33. Donation to Civil Service College, Dhaka [SRO 409-AIN/IT/2012 dated 17.12.2012]
34. Donation to Center for Neurodevelopment & Autism in Children (CNAC) for 5 years from the SRO issuance date [SRO 147-AIN/IT/2012 dated 03.06.2012]
35. Donation to Dr. Monsuruddin Girls College (College Code: 7458), Hoshimpur, Kochua, Chandpur for 10 years effective from the date of the SRO issue [SRO 188-AIN/IT/2013 dated 13.06.2013]
36. Donation to Science and Technology Development Fund, Ministry of Science and Technology, Bangladesh Secretariat, Dhaka [SRO 282-AIN/IT/2013 dated 21.08.2013]
37. Donation to Hope Worldwide Bangladesh [SRO 283-AIN/IT/2015 dated 03.09.2015]

SELF REVIEW 18A – 1

Which of the given items will not be considered as tax credit income? – (a) Purchase of income tax book (b) Share purchase through IPO (c) Contribution to old age fund (d) Purchase of land.

18A.5 LIST OF INCOMES ON WHICH TAX IS DEDUCTED AT SOURCE AND WHERE GROSSING UP IS REQUIRED

There are some incomes on which a certain percentage (in most of the cases, 10%) tax is deducted at source. So, to include those incomes in the total income, grossing up is necessary. The following formula is used to gross up the incomes:

$$\text{Gross interest} = \text{Net interest} \times [100 \div (100 - \text{Rate of tax deducted at source})]$$

Some of these incomes are as follows:

1. Net interest received on Taxable Govt. Securities.
2. Interest / Profit on bank deposits
3. Dividend income.
4. Interest on post office savings deposit

SELF REVIEW 18A – 2

Gross up the following incomes:

- (a) Interest on taxable government securities Tk. 7,600 if TDS rate is (i) 5% (ii) 20%.
- (b) Interest on post office savings bank Tk. 9,000.

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SPECIMEN FORM OF COMPUTATION OF TOTAL INCOME

Assessee:

Assessment Year: 2017 – 2018

Income Year: 2016 – 2017

Calculation of Total Income

Sources of Income and Particulars	Tk.	Tk.	Tk.
1. Income from Salary (section – 21):			
(a) Basic salary (BS)		XX	
(b) Dearness allowance		XX	
(c) Annuity		XX	
(d) Festival bonus / performance bonus		XX	
(e) Leave encashment / Compensation		XX	
(f) Employer's contribution to recognized PF		XX	
(g) Interest on recognized provident fund	XX		
Less: exempted: lower of interest @ 14.5% or 1/3rd of BS	<u>XX</u>	XX	
(h) Advance salary / outstanding salary		XX	
(i) Retirement allowance / pension	XX		
Less: exempted - full	<u>XX</u>	XX	
(j) Entertainment allowance		XX	
(k) Medical allowance	XX		
Less: exempted – Lower of Tk. 120,000 or 10% of basic S.	<u>XX</u>	XX	
(l) House-rent allowance	XX		
Less: lower of Tk. 300,000 (annually) or 50% of BS	<u>XX</u>	XX	
(m) Rent free accommodation:			
Lower of the rental value or 25% of BS		XX	
(n) Accommodation at a concessional rate:			
Lower of the rental value or 25% of BS	XX		
Less: rent paid by the employee	<u>XX</u>	XX	
(o) Conveyance allowance	XX		
Less: exempted – (maximum Tk. 30,000)	<u>XX</u>	XX	
(p) Conveyance facility: higher of Tk. 60,000 or 5% of B.S.		XX	
(q) Conveyance facility & allowance:			
Both benefits will be added, no deductions are allowed		XX	
(r) Servant's allowance		XX	
(s) Others benefit		XX	
(t) Gratuity	XX		
Less: exempted upto Tk. 2.5 crore	<u>XX</u>	<u>XX</u>	XX
2. Income from Security (section – 22):			
(a) Interest from tax exempt government securities	XX		
Less: exemption (full)	<u>XX</u>	XX	
(b) Interest from taxable government securities	XX		
Less: Admissible expenses -			
Bank charge and commission	XX		
Interest on borrowed fund	<u>XX</u>	<u>XX</u>	XX
(c) Interest from debentures	XX		

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Sources of Income and Particulars	Tk.	Tk.	Tk.
Less: Admissible expenses -			
Bank charge and commission	XX		
Interest on borrowed fund	<u>XX</u>	XX	
(d) Income from zero-coupon bond	XX		
Less: exempted – full	<u>XX</u>	<u>XX</u>	XX
(e) Interest on Savings Certificate [Interest \times 100 \div 95]			XX
3. Income from House Property (Section 24 – 25):			
Annual Value: Rental value			
Add: TDS (If any)	XX		
Add: Owner's expenses paid by the tenant	XX		
Less: Tenant's expenses paid by the owner	<u>(XX)</u>		
Actual Rental Value	XX		
Municipal Value	<u>XX</u>		
Higher of Actual Rental value and Municipal Value		XX	
Receipt of Advance		<u>XX</u>	
Less: admissible expenses:		XX	
(i) Land development tax	XX		
(ii) Insurance Premium	XX		
(iii) Interest on Mortgage Loan	XX		
(iv) Annual tax [Municipal or local authority tax]	XX		
(v) Interest on Borrowed Capital	XX		
(vi) Ground Rent	XX		
(vii) Repair & Maintenance Expenses	XX		
[Collection charge, sewerage bill, salary of guard, liftmen, caretaker]			
[Admissible limit: Resident: 25% & Commercial: 30%]			
(viii) Vacancy Allowance	XX		
(ix) Uncollectible Rent	<u>XX</u>	<u>XX</u>	XX
4. Income from Agriculture (Section 26 – 27):			
(a) Sale of crops	XX		
(b) Income from any land or building used for agricultural purposes	XX		
(c) Income from granting a right ['Borga']	XX		
(d) Income from tea garden or rubber garden [60%]	XX		
(e) Revenue profit by sale of discarded or demolished agricultural machineries	XX		
(f) Other income relating to agriculture	<u>XX</u>	XX	
Less: Admissible expenses –			
(i) Land development tax	XX		
(ii) Any taxes [local taxes, etc]	XX		
(iii) production costs	XX		
❖ Cost for cultivating the land or raising live-stock			
❖ Ordinary processing costs to make crop marketable			
❖ Transportation cost of crops or livestock to market			
❖ Maintenance cost of agricultural equipments & up keeping of cattle for cultivation			

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Sources of Income and Particulars	Tk.	Tk.	Tk.
If proper books of accounts does not maintained an expenditure equivalent to 60% of sales proceeds is allowed as admissible expense			
(iv) Insurance Premium	XX		
(v) Repair and Maintenance of irrigation plant	XX		
(vi) Depreciation	XX		
(vii) Interest on Mortgage Loan	XX		
(viii) Interest on Borrowed Capital	XX		
(ix) Losses due to sale of cultivable land	XX		
(x) losses due to discard or demolish of agri. machineries	XX		
(xi) Other revenue expenses	XX	XX	XX
5. Income from Business or Profession:			
Net Income as per Profit and Loss Account		XX	
Add: Expenses that are not allowed (made dr. in P/L acc.)		XX	
Add: Income under the head of Business and Profession that are not included earlier		XX	
Less: Expenses that are allowed (not debited in P/L acc)		XX	
Total Income		XX	
		XX	
Less: Income that are not from business or profession (already credited in P/L acc.)		XX	XX
6. Share of Profit in a Partnership Firm			XX
7. Income from Spouse or Minor Child			XX
8. Capital Gain:			
Sale Proceeds of Capital Assets, or	XX		
Fair Market Value at the Time of Transfer, <i>whichever is higher</i>	XX	XX	
Less – Allowable Deductions			
(i) Expenditure incurred to transfer the capital asset(s)	XX		
(ii) Cost of Acquisition	XX		
(iii) Capital expenditure for improvements of the asset(s)	XX	XX	
Capital Gain		XX	
Less: Tax-Exempted capital gain		XX	XX
9. Income from other sources:			
(a) Income from Mutual / unit fund [$\text{Income} \times 100 \div 90$]	XX		
Less: Exempted – up to Tk. 25,000	(XX)	XX	
(b) Dividend (public/ private ltd. Co.) [$\text{Dividend} \times 100 \div 90$]	XX		
Less: Exempted – up to Tk. 25,000	(XX)	XX	
(c) Bank interest/profit from Islami Bank [$\text{Interest} \times 100 \div 90$]		XX	
(d) Interest on Post Office Savings Bank & Postal Savings Certificate [$\text{Interest received} \times 100 \div 90$]		XX	
(e) Any commission/fee from parties other than employer		XX	
(f) Royalty from books/mine/Ferighat [If TDS charged: final tax settlement as per section 82(c) and full amount will be deducted; otherwise, full amount will be added]		XX	

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Sources of Income and Particulars	Tk.	Tk.	Tk.
(g) Income from prize bond/lottery/quiz competition/crossword [Amount received × 100/80]	XX		
Less: Final tax settlement as per section 82(c) – (full)	(XX)	-	
(h) Income / commission / fee as remuneration of Director		XX	
(i) Non-agricultural income like sale of forest trees, sale of fruits/honey, sale of fish of pond (other than firm) etc		XX	
(j) Income from invigilation & exam script evaluation		XX	
(k) Income from writing articles / columns in newspapers		XX	
(l) participating in radio/TV/ cultural /training programs		XX	
(m) Income from lease of non-agricultural land		XX	
(n) Income from Tuition		XX	
(o) Income from underwriting commission for sale of shares and securities.		XX	
(p) Income from non-resident husband / wife (If not brought through banking channel)		XX	
(q) Income from patent / license		XX	
(r) Income from rent of boat / mooring terminal		XX	
(s) Income from patent / license		XX	
(t) Income from rent of boat / mooring terminal		XX	
(u) Income from letting out household appliances like furniture, machineries etc		XX	
(v) Unexplained Investments deemed to be Income u/s - 19		XX	
(w) Any other income not classified under any head		XX	
Less- Allowable deductions:			
Interest on loan taken to purchase share and securities	XX		
Any revenue expenditure incurred for making earnings	XX	XX	XX
10. Foreign Income			XX
Total Income (Taxable)			<u>XX</u>

Calculation of Tax liability:

	Tk.	Rates	Tk.
On first	250,000	0%	-
On next	400,000	10%	XX
On next	500,000	15%	XX
On next	600,000	20%	XX
On next	30,00,000	25%	XX
On remaining balance	XX	30%	XX
Total	<u>XX</u>		XX
Less: Tax rebate on income from partnership firm			XX
Less: Double taxation relief			XX
Less: Investment tax credit @ 15%			XX
			XX
Less: Tax deducted at source/Advance taxes			XX
Less: Tax Refund adjustment			XX
Net Tax liability			<u>XX</u>

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Notes:

- (1) In case of women, elderly citizens of more than 65 years old, the maximum non-assessable limit of total income is Tk. 300,000, for disable persons the limit is Tk. 400,000 and for gazetted wounded freedom fighters Tk. 425,000.
- (2) The minimum tax would be Tk. 5,000 (Dhaka & Chittagong City corporation area); Tk. 4,000 (Other City Corporation area) and Tk. 3,000 (Other area).

Individual assessee having net wealth exceeding Tk. 2.25 (two crore twenty five lakh as per wealth statement is liable to pay **surcharge** as per the Finance Act, 2017, for the assessment year 2017-18. **Surcharge** will be applied on **Individual assessee** as per following rate:

Upto Tk. 2.25 crore	– @ 0%
More than Tk. 2.25 crore to Tk. 5 crore	– @ 10% on income tax payable
More than Tk. 5 crore to Tk. 10 crore	– @ 15% on income tax payable
More than Tk. 10 crore to Tk. 15 crore	– @ 20% on income tax payable
More than Tk. 15 crore to Tk. 20 crore	– @ 25% on income tax payable
More than Tk. 20 crore	– @ 30% on income tax payable

[However, if net wealth amount exceeds Tk. 2.25 crore, minimum surcharge amount will be Tk. 3,000. On the other hand, 2.5% surcharge will be applicable on a taxpayer's income from tobacco manufacturing business.]

Illustration 18A – 1:

From the following information calculate taxable income and tax liability of Mr. Anis for the income year ended 30th June, 2017:

Income Data: Income from Salary Tk. 1,000,000; Income from Securities Tk. 65,000; Income from House Property Tk. 360,000; Income from Agriculture Tk. 80,000; Income from Business or Profession Tk. 525,000; Capital Gain Tk. 20,000; and Income from other sources Tk. 45,000.

Investments and Expenses Data: Insurance premium – own (Policy value Tk. 820,000) Tk. 80,000 and spouse (Policy value Tk. 500,000) Tk. 55,000; Deposited to pension scheme per month Tk. 2,000; Educational expense of son Tk. 84,000; Household expenses Tk. 158,000; Donated to recognized fund Tk. 100,000; Purchase of savings certificate Tk. 40,000; Purchase of Treasury bond Tk. 25,000; Purchase of magazines and books Tk. 4,500; Purchase of 10% debenture Tk. 10,000 (through IPO); Donated to - prime minister's relief fund Tk. 45,000; recognized high school Tk. 30,000; a local sporting club Tk. 10,000; Sir Salimullah Muslim Orphanage Tk. 15,000; recognized welfare fund Tk. 3,600; government zakat fund Tk. 15,000; Gift to wife Tk. 25,000; Purchased share of an unlisted company Tk. 25,000; Purchased share of a co-operative society Tk. 10,000; Purchase share of a private limited company Tk. 5,000; Purchased share of a registered partnership firm Tk. 3,000; Purchased primary share of a listed company Tk. 15,000; Purchased share of a listed company from Dhaka Stock exchange Tk. 30,000; Donated to Bangladesh Sports Development Council Tk. 8,000; Donated to President's relief fund Tk. 5,000; Advance payment for expenses Tk. 10,000; and Purchase of a Desktop Computer Tk. 45,000.

Solution 18A – 1:

Mr. Anis

Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

Calculation of taxable income

	Tk.
1. Income from Salary (section: 21)	1,000,000
2. Income from Securities (section: 22 & 23)	65,000

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3. Income from House Property (section: 24 & 25)	360,000
4. Income from Agriculture (section: 26 & 27)	80,000
5. Income from Business or Profession (section: 28 - 30)	525,000
6. Capital Gain (section: 31 & 32)	20,000
7. Income from other sources (section: 33 & 34)	45,000
Total	<u>2,095,000</u>

Calculation of Tax liability:

		<u>Rates</u>	<u>Tk.</u>
On first Tk.	250,000	0%	-
On next	400,000	10%	40,000
On next	500,000	15%	75,000
On next	600,000	20%	120,000
On rest	345,000	25%	86,250
Total	<u>2,095,000</u>		<u>321,250</u>
Less: Investment tax credit			<u>69,612</u>
Tax liability			<u>251,638</u>

Calculation of allowable investment:

1. Insurance premium – own	Tk. 80,000	
Maximum limit: 10% of Tk. 8,20,000	<u>82,000</u>	Tk. 80,000
2. Insurance premium – spouse	55,000	
Maximum limit: 10% of Tk. 5,00,000	<u>50,000</u>	50,000
3. Deposit pension scheme (2,000 X 12)		24,000
4. Donation to recognized fund		100,000
5. Purchase of savings certificate		40,000
6. Purchase of Treasury bond		25,000
7. Purchase of debenture through IPO		10,000
8. Donation to prime minister relief fund		45,000
9. Donation to recognized high school		30,000
10. Donation to recognized welfare fund		3,600
11. Donation to government zakat fund		15,000
12. Purchase of listed company's primary share		15,000
13. Purchase of listed company's shares from DSE		30,000
14. Donation to president relief fund		5,000
15. Purchase of a Desktop Computer		<u>45,000</u>
Actual allowable investment		517,600
Maximum limit of allowable investment:		
25% of total taxable income (2,095,000 × 25%)	523,750	
Or, maximum	<u>15,000,000</u>	<u>5,23,750</u>
Allowable investment for tax credit		<u>5,17,600</u>

Notes: (1) It is assumed that, incomes from different sources represents taxable income from those heads. (2) Insurance premium is allowable maximum 10% of policy value. (3) Donation to any recognized area is allowable investment. (4) Personal expenses and gifts are not allowable for tax credit. (5) Allowable investments have been calculated following sixth schedule – Part B of the ITO, 1984. Tax rebate on investment allowance will be [(2,50,000 X 15%)+(2,67,600 X 12%)] = Tk. 69,612

Illustration 18A – 2:

Mr. Noman is an executive of Dhaka based organization who generated following incomes during the year ended 30.06.17:

Income Data: Basic salary Tk. 8,000 per month; House rent allowance Tk. 5,000 per month; Conveyance allowance Tk. 1,000 per month; Mobile bill allowance Tk. 500 per month; Two festival bonus each equal to Tk. 10,000; Commission received total Tk. 20,000 for the year; Overtime allowance Tk. 30,000 for the year; Income from sole proprietorship business Tk. 88,000; Dividend from limited company share Tk. 5,400; Interest from tax exempt government securities Tk. 8,000; and Interest form debentures Tk. 7,600;

Investments and Expenses Data: Life Insurance Premium paid Tk. 20,000 (Policy value Tk. 200,000); Donated to local club Tk. 2,000; Gift to wife Tk. 20,000; Donation to a local mosque Tk. 5,000; Investment in primary shares of listed companies Tk. 60,000; Investment in Savings Certificate Tk. 30,000; Donation to a Charitable Hospital Tk. 10,000; Purchase of furniture Tk. 15,000; Donation to Apollo Hospital Tk. 30,000; and Donation to Govt. Zakat Fund Tk. 5,000.

Required:

Calculate taxable income and net tax liability for Mr. Noman for the assessment year 2017 – 2018.

Solution 18A – 2:

Mr. Noman Income Year: 2016 – 2017 Assessment Year: 2017 – 2018 Calculation of taxable income			
	<u>Tk.</u>	<u>Tk.</u>	<u>Tk.</u>
1. Income from Salary (section – 21):			
Basic salary (8,000 × 12)		96,000	
House rent allowance (5,000 × 12)	60,000		
Less: lower of 50% of basic salary Tk. 48,000			
Or, Tk. 25,000 per month <u>300,000</u>	<u>48,000</u>	12,000	
Conveyance allowance (1,000 × 12)	12,000		
Less: exempted (maximum Tk. 30,000)	<u>12,000</u>	-	
Mobile bill allowance (500 × 12)		6,000	
Festival bonus (10,000 × 2)		20,000	
Overtime allowance		30,000	
Commission		<u>20,000</u>	184,000
2. Income from Securities (section: 22 & 23):			
Interest from tax exempt government securities	8,000		
Less: exempted (full)	<u>8,000</u>	-	
Interest from debentures(7,600/95*100)		<u>8,000</u>	8,000
3. Income from Business or Profession (section: 28–30):			
Income from sole proprietorship business			88,000
4. Income from other sources (section: 33 & 34):			
Dividend income (5,400 × 100 ÷ 90)	6,000		
Less: Exempted - up to Tk. 25,000	<u>25,000</u>	-	-
Total			<u><u>280,000</u></u>

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Calculation of Tax liability:				Calculation of Allowable investment	
		Rates	Tk.		Tk.
On first Tk.	250,000	0%	-	Life insurance premium	20,000
On next Tk.	30,000	10%	3,000	Share purchase	60,000
Total	<u>280,000</u>		3,000	Savings certificate	30,000
Less: Investment tax credit				Donation: Hospital	10,000
(70,000 X 15%)			10,500	Zakat fund	5,000
			<u>(7,500)</u>	Actual investment	<u>125,000</u>
Minimum tax liability			5,000	Maximum limit:	
Less: Tax deducted at source			1,000	Lower of 25% of 280,000	70,000
Tax liability			<u>4,000</u>	Or, Tk. 15,000,000	
				Allowable investment	<u>70,000</u>

Notes: Tax deducted at source includes Tk. 400 on debenture interest and Tk. 600 on divided income. On the other hand, Investment allowance is calculated on the maximum limit of allowable investment as actual allowable investment exceeds the maximum limit. Since his calculated tax liability is negative but has taxable income so he has to pay minimum amount of tax.

Maximum limit of investment allowance is 25% of the total income excluding any income for which a tax exemption or a reduced rate is applicable u/s 44(4) or any income from any source or sources mentioned in section 82C(2)(a) i.e. 25% of 280,000 = Tk. 70,000; Here there is no income where minimum tax is applicable on it u/s 82C.

Illustration 18A – 3:

Calculate taxable income and net tax liability from the following information stated by Mr. Orki for the income year ended 30.06.17.

Basic pay Tk. 18,000 per month; House rent allowance Tk. 10,000 per month; Entertainment allowance Tk. 2,000 per month (actual expense Tk. 20,000); Conveyance facilities that he can use for office purposes only; He contributed 10% of basic salary in a recognized provident fund and his employer also contributed the same amount in the fund. He received Tk. 5,000 from the said fund as interest for the year @14.5%; Festival bonus Tk. 18,000 for the year; He received rent from his house property Tk. 400,000 during the year whereas the municipal value of the house is Tk. 3,20,000. He incurred Tk. 110,000 for repair and maintenance expense, Tk. 8,000 insurance premium, and Tk. 6,000 city corporation tax for the house during the year; He received interest from post office savings bank account Tk. 4,500; Divided from a limited company Tk. 8,100; Sale of forest timber Tk. 9,000. He paid life insurance premium of Tk. 30,000; purchased savings certificate Tk. 50,000 and also purchased primary share of a listed public company Tk. 40,000 during the year.

Solution 18A – 3:

Mr. Orki			
Income Year: 2016 – 2017			
Assessment Year: 2017 – 2018			
Calculation of taxable income			
	Tk.	Tk.	Tk.
1. Income from Salary (section: 21):			
Basic salary (18,000 × 12)		216,000	
House rent allowance (10,000 × 12)	120,000		

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Less: lower one 50% of basic salary	108,000			
Or, Tk. 25,000 per month	<u>300,000</u>	<u>108,000</u>	12,000	
Entertainment allowance (2,000 × 12)			24,000	
Employer's contribution to RPF (10% of 216,000)			21,600	
Interest from RPF		5,000		
Less: exemption - Interest @ 14.5% [5,000 ÷ .145 × .145]				
Or, 1/3 of basic salary, lower one		<u>5,000</u>	-	
Festival Bonus			<u>18,000</u>	291,600
2. Income from House Property (section: 24 & 25):				
Annual Value: Higher of actual rental value (Tk. 400,000) and municipal value (Tk. 320,000)			400,000	
Less: Admissible expenses –				
Repair and maintenance (25% × 400,000)		100,000		
Insurance		8,000		
City corporation tax		<u>6,000</u>	<u>114,000</u>	286,000
3. Income from other sources (section: 33 & 34):				
Interest from post office sav. account (4,500 × 100 ÷ 90)			5,000	
Dividend income (8,100 × 100 ÷ 90)		9,000		
Less: Exempted – up to Tk. 25,000		<u>25,000</u>	-	
Sale of forest timber			<u>9,000</u>	
				<u>14,000</u>
Total				<u>591,600</u>

Calculation of Tax liability:				Calculation of Allowable investment	
		Rates	Tk.		Tk.
On first Tk.	250,000	0%	-	Life insurance premium	30,000
On next Tk.	<u>341,600</u>	10%	<u>34,160</u>	Contribution to recognized PF	43,200
Total	<u>591,600</u>		34,160	Savings certificate	50,000
Less: Investment tax credit				Primary share purchase	40,000
(147,900 × 15%)			<u>22,185</u>	Actual investment	<u>163,200</u>
			12,002	Maximum limit:	
Less: Tax deducted at source			<u>1,400</u>	Lower of (5,91,600 × 25%)=	
Tax liability			<u>10,602</u>	147,900 or Tk. 15,000,000	<u>147,900</u>
				Allowable investment	<u>147,900</u>

Notes: (1) As rate of interest on RPF is not given, it is considered as 14.50%. (2) Actual spending for repair and maintenance is more than the allowable amount. Considering property was let out for residential purposes, 25% of annual value has been charged as admissible. (3) TDS includes Tk. 500 on interest on post office savings account and Tk. 900 on dividend income.

Illustration 18A – 4:

Mr. M. Z. Mamun is a professor of East West University. His income during the income year 2016 – 2017 is: basic salary of Tk. 15,500 in the last month of the income year under the salary scale of 9,500 – 1,500 – 18,500; house rent allowance 40% of basic salary; medical allowance 10% of basic salary; and Tk. 3,000 per month as house tutor of a student residential hall. His date of salary increment is 1st February every year. Mr. Mamun received Tk. 50,000 from invigilation and examination script evaluation during the year. He contributed 10% of his basic salary to a recognized provident fund. He attended four different seminars and delivered speech as resource

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person organized by BIBM and received Tk. 31,000. He is a owner of a house at Malibagh, Dhaka which he let out for a yearly rent of Tk. 1,54,000. Municipal value of the house is Tk. 150,000. He spent Tk. 40,000 as repair and maintenance expense, Tk. 5,000 as municipal tax and Tk. 8,000 as insurance premium of the house. He also paid Tk. 5,000 water and gas bill of his tenants during the year. Mr. Mamun is a partner of N & M consultant and received Tk. 65,000 as share of profit from the firm. Besides, he received Tk. 900 as interest on post office bank deposit and Tk. 36,000 as dividend from a public limited company. Calculate taxable income for the income year 2015-16.

Solution 18A – 4:

Mr. M. Z. Manum			
Income Year: 2016 – 2017: Assessment Year: 2017 – 2018			
Calculation of taxable income			
	Tk.	Tk.	Tk.
1. Income from Salary (section: 21):			
Basic salary $\{(14,000 \times 7) + (15,500 \times 5)\}$		175,500	
House rent allowance $(175,500 \times 40\%)$	70,200		
Less: lower of 50% of basic salary Tk. 87,750			
Or, Tk. 25,000 per month <u>240,000</u>	87,750	-	
Medical allowance	17,550		
Less: Ex: lower of Tk. 120,000 or 10% of B.S.	17,550	-	
Income as house tutor		36,000	
Income as invigilator and script evaluator		50,000	
Employer's contribution to RPF		17,550	279,050
2. Income from House Property (section: 24 & 25):			
Annual rental value	154,000		
Less: tenant's expenses paid by the owner	5,000		
	149,000		
Municipal value	150,000		
Annual value (whichever is higher)		150,000	
Less: Admissible expenses –			
Repair and maintenance $(150,000 \times 25\%)$	37,500		
Municipal tax	5,000		
Insurance	8,000	50,500	99,500
3. Share of Profit in a Partnership Firm			65,000
4. Income from other sources (section: 33 & 34):			
Income as speaker of seminars		31,000	
Interest on post off. bank deposit $(900 \times 100 \div 90)$		1,000	
Dividend income $(36,000 \times 100 \div 90)$	40,000		
Less: Exempted – up to Tk. 25,000	25,000	15,000	47,000
Total			<u>490,550</u>

Illustration 18A – 5:

Mr. Akram is an executive of a private firm. Compute his taxable income and tax liability for the assessment year 2017 – 2018 considering actual allowable investment for Mr. Akram during the income year was Tk. 150,000. His sources of income includes: **Income from Salary:** Basic salary Tk. 15,000 per month; Festival bonus equivalent to two months basic salary; House rent allowance Tk. 25,000 per month; Entertainment allowance @ 5% of basic salary; Medical allowance Tk. 3,800 per

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month (actual annual expense Tk. 18,000); Conveyance allowance Tk. 1,500 per month; Contribution to recognized provident fund both by employee and employer @ 10% of basic salary. **Income from Agriculture:** Sale of crops Tk. 150,000; Income from sale of tea Tk. 80,000; Income from sale of fish of pond Tk. 70,000. **Income from other sources:** Interest from fixed deposit Tk. 27,000; Dividend received Tk. 9,000; and Income from lease of non agricultural land Tk. 40,000.

Solution 18A – 5:

Mr. Akram

Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

Calculation of taxable income

		Tk.	Tk.	Tk.
1. Income from Salary (section: 21):				
Basic salary (33,000 × 12)			396,000	
Festival bonus (33,000 × 2)			66,000	
House rent allowance (15,000 × 12)		180,000		
Less: lower of 50% of basic salary	198,000			
Or, Tk. 25,000 per month	<u>300,000</u>	198,000	-	
Entertainment allowance @ 5%			19,800	
Medical allowance (3,800 × 12)		45,600		
Less: ex: lower of Tk. 120,000 or 10% of B.S.		<u>39,600</u>	6,000	
Conveyance allowance (1,500 × 12)		18,000		
Less: exempted (maximum Tk. 30,000)		<u>30,000</u>	-	
Employer's contribution to RPF			39,600	527,400
2. Income from Agriculture (section: 26 & 27):				
Sale of crops			150,000	
Income from sale of tea (60%)			<u>48,000</u>	
Less: Admissible expenses –			198,000	
Production cost (150,000 × 60%)			<u>90,000</u>	108,000
3. Income from Business or Profession (sec: 28–30)				
Income from sale of tea (40%)				32,000
4. Income from other sources (section: 33 & 34):				
Income from sale of fish of pond			70,000	
Interest from fixed deposit (27,000 × 100 ÷ 90)			30,000	
Dividend income (9,000 × 100 ÷ 90)		10,000		
Less: Exempted – up to Tk. 25,000		<u>20,000</u>	-	
Lease of non agricultural land			40,000	140,000
Total				<u>807,400</u>

Calculation of Tax liability:

On first Tk. 250,000 @ 0%	-	Deduction: Tax deducted at source	4,000
On next Tk. 400,000 @ 10%	40,000	Investment tax credit (150,000 × 15%)	<u>22,500</u>
On next Tk. 157,400 @ 15%	23,610	Total deduction	<u>26,500</u>
Gross Tax	<u>63,610</u>	Net Tax Liability (Gross Tax – Deduction)	<u>37,110</u>

Notes: (1) Actual allowable investment for the year is Tk. 150,000 which is within the maximum limit of allowable investment, so tax credit is calculated here on the actual amount of investment. Maximum limit is lower of 25% of 807,400 i.e., Tk. 201,850 or Tk. 15,000,000. (2) Tax deducted at source includes Tk. 3,000 on interest from bank deposit and Tk. 1,000 on dividend income.

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Illustration 18A – 6:

Following are the particulars of Mr. Shahidul Alam for the income year ended 30th June, 2017:

Mr. Alam is an executive and received Tk. 38,000 per month as basic salary, Tk. 1,000 per month as entertainment allowance, dearness allowance @ 5% of basic salary, festival bonus of Tk. 80,000 for the year, medical allowance Tk. 2,000 per month. Mr. Alam has been provided with a free furnished quarter (annual rental value of the quarter is Tk. 180,000) and also a car that he can use for office purposes only. Mr. Alam spent Tk. 15,000 for alteration of the quarter. Mr. Alam invested Tk. 100,000 in a 15% tax exempt government security and Tk. 250,000 in a 16% approved debenture. He has investment in post office fixed deposit from which he received Tk. 45,900 as interest.

Other particulars of Mr. Alam are: He contributed Tk. 2,000 per month in a deposit pension scheme; Tk. 40,000 to zakat fund; Tk. 60,000 as life insurance premium; Tk. 65,000 as his children's education expenses. Mr. Alam withdrew Tk. 15,000 as advance salary and receive performance bonus equal to three months basic salary. Mr. Alam is the holder of a license that he gave to one of his friend and received Tk. 35,000 as rent of the license.

Compute total taxable income and tax liability for the assessment year 2017 – 2018.

Solution 18A – 6:

Mr. Shahidul Alam Income Year: 2016 – 2017 Assessment Year: 2017 – 2018 Calculation of taxable income			
	Tk.	Tk.	Tk.
1. Income from Salary (section: 21):			
Basic salary (38,000 × 12)		456,000	
Entertainment allowance (1,000 × 12)		12,000	
Dearness allowance (456,000 × 5%)		22,800	
Festival bonus		80,000	
Medical allowance (2,000 × 12)	24,000		
Less: Ex: lower of Tk. 120,000 or 10% of B.S	45,600	-	
Accommodation facilities: lower of 25% of basic salary	114,000		
Or, Annual rental value	180,000		
		114,000	
Advance salary		15,000	
Performance bonus (38,000 × 3)		114,000	
			813,800
2. Income from Securities (section: 22 & 23):			
Interest from tax exempt government securities	15,000		
Less: exempted (full)	15,000	-	
Interest from debentures		40,000	40,000
3. Income from other sources (section: 33 & 34):			
Interest from post office (45,900 × 100 ÷ 90)		51,000	
Income from rent of license		35,000	
			86,000
Total income			939,800

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Calculation of Tax liability:				Calculation of Allowable investment	
On first Tk.	250,000	@ 0%	Tk. -	Life insurance premium	Tk. 60,000
On next Tk.	400,000	@ 10%	40,000	Contribution to DPS	24,000
On next Tk.	289,800	@ 15%	43,470	Donation to Zakat fund	40,000
Total	<u>939,800</u>		83,470	Actual investment	<u>124,000</u>
Less: Investment tax credit @15%			(18,600)	Maximum limit:	
TDS			(7,100)	Lower of 25% of 9,39,800	
Tax liability			<u>57,770</u>	Or, Tk. 15,000,000	234,950
				Allowable investment	<u>124,000</u>

Illustration 18A – 7:

Calculate taxable income for Professor Zakaria Rahman for the income year 2016 – 2017 considering:

Income from Salary: Basic salary Tk. 60,000 per month; Dearness allowance Tk. 2,000 per month; Medical allowance Tk. 2,500 per month; House rent allowance @ 40% of basic salary; Contribution to recognized PF both by employee and employer @ 10% of basic salary; Interest from recognized provident fund @ 16% Tk. 290,200. He has been provided with a full time car for which a sum of Tk. 1,500 per month has been deducted by his employer.

Income from house property: He has a house at Banani consisting of four flats. The whole house has been let out to White Shark Communications Limited, an advertising firm for Tk. 60,000 per month. The municipal value of the house is Tk. 600,000. The annual expenses relating to the house are: Repair and maintenance expenses Tk. 220,000; Collection charge Tk. 2,000 per month; Municipal tax Tk. 10,000; WASA charge Tk. 9,000; Interest on borrowed capital Tk. 6,000; Insurance premium paid Tk. 8,000. Out of the four flats in the house one remained vacant for two months during the year.

Others: He received profit from partnership firm Tk. 250,000; interest on bank deposit Tk. 9,000; honorarium as visiting faculty of AIUB for fall 2016 semester (4 months semester) Tk. 15,000 per month; income from lease of agricultural land Tk. 35,000. He generated capital gain of Tk. 80,000 by sale of share of a public limited company and Tk. 200,000 by sale of his personal motor car.

Solution 18A – 7:

Mr. Zakaria Rahman

Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

Calculation of taxable income

	Tk.	Tk.	Tk.
1. Income from Salary (section: 21):			
Basic salary (60,000 × 12)		720,000	
Dearness allowance (2,000 × 12%)		24,000	
Medical allowance (2,500 × 12)	30,000		
Less: Ex: lower of Tk. 120,000 or 10% of B.S. i. e. Tk. 72,000	<u>72,000</u>	-	
House rent allowance (720,000 × 40%)	<u>288,000</u>		
Less: lower of 50% of basic salary 360,000			
Or, Tk. 25,000 per month <u>300,000</u>	<u>300,000</u>	-	
Employer's contribution to RPF		72,000	
Interest from RPF	290,200		

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Less: lower of Interest @ 14.50%	262,994			
Or, 1/3 of basic salary [720,000 ÷ 3]	<u>240,000</u>	<u>240,000</u>		
			50,200	
Car facilities: higher of 60,000 or (720,000 × 5%)		60,000		
Less: employee's contribution (1,500 × 12)		<u>18,000</u>		
			<u>32,000</u>	898,200
2. Income from House Property (section: 24 & 25):				
Actual rental value (60,000 × 12)		720,000		
Municipal value		<u>600,000</u>		
Annual value (whichever is higher)			720,000	
Less: Admissible expenses: Repair and maintenance	216,000			
Municipal tax	10,000			
Interest on borrowed capital	6,000			
Insurance	8,000			
Vacancy allowance (720,000 ÷ 4 × 2 ÷ 12)	<u>30,000</u>		<u>270,000</u>	450,000
3. Income from Agriculture (section: 26 & 27):				
Income from lease of agricultural land				35,000
4. Share of Profit in a Partnership Firm				
				250,000
5. Capital Gain (section: 31 & 32):				
Sale of Share			80,000	
Less: exemption (full)			<u>80,000</u>	-
6. Income from other sources (section: 33 & 34):				
Interest on bank deposit (9,000 × 10 ÷ 9)			10,000	
Honorarium as faculty (15,000 × 4)			<u>60,000</u>	<u>70,000</u>
Total				<u>1,703,200</u>

Notes: (1) Repair and maintenance is charged @30% of annual value. (2) No capital gain is considered in case of personal property so capital gain by sale of personal motor car needs not to be disclosed.

Illustration 18A – 8:

Mr. Maksudur Rahman Sarkar is a professor. His particulars for the income year ended 30th June, 2016 are: Mr. Sarkar received basic salary of Tk. 40,000 in the month of July 2016 under the salary scale 36,000 – 4,000 – 56,000. Date of annual increment of his salary is 1st December. Besides basic salary he is entitled to receive 10% of basic salary as medical allowance, 5% as dearness allowance, Tk. 2,000 per month as conveyance allowance. He received two festival bonuses during the year (each equal to one month's basic salary), both of the bonuses were received after annual increment of the year. Mr. Sarkar is also entitled to receive concession rate accommodation and a full time car. His employer charged him Tk. 3,000 per month against the accommodation facility.

During the year Mr. Sarkar generated income by sale of Jute Tk. 50,000 and sale of rice Tk. 300,000. He failed to show any record relating to production cost but claim repair of agricultural equipment Tk. 7,000; land development tax Tk. 2,000; allowable depreciation Tk. 10,000; and Cultivation cost Tk. 60,000 as production cost.

His other particulars of income includes, share of profit from partnership firm Tk. 80,000; losses from sole proprietorship business Tk. 7,300; honorarium received by writing articles in newspaper Tk. 2,000; income from mooring terminal Tk. 1,400; dividend received Tk. 28,800; and interest on bank deposit Tk. 3,870. Mr. Sarkar made and incurred the investments and expenses during the

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said year for: Life insurance premium paid Tk. 60,000 (policy value Tk. 500,000); Donation to employee's welfare fund Tk. 10,000; share purchase through IPO Tk. 60,000, from DSE 20,000; Donation to religious institutions Tk. 5,000; Donation to Zakat fund Tk. 16,250; Donation to president relief fund Tk. 15,000; Purchase of Gold Tk. 20,000 and Contribution to group insurance Tk. 2,000. Calculate taxable income and net tax liability for Mr. Sarkar assuming that during the income year his total net asset amount is Tk. 3 crore.

Solution 18A – 8:

Mr. Maksudur Rahman Sarkar
Income Year: 2016 – 2017
Assessment Year: 2017 – 2018
Calculation of taxable income

	Tk.	Tk.	Tk.
1. Income from Salary (section: 21):			
Basic salary $[(40,000 \times 5) + (44,000 \times 7)]$		508,000	
Medical allowance $(508,000 \times 10\%)$	50,800		
Less: Ex: lower of Tk. 120,000 or 10% of B.S.	50,800	-	
Dearness allowance $(508,000 \times 5\%)$		25,400	
Conveyance allowance $(2,000 \times 12)$		24,000	
Festival bonus $(44,000 \times 2)$		88,000	
Conv. facilities: higher of 60,000 or $(508,000 \times 5\%)$		60,000	
Concession rate accommodation $(508,000 \times 25\%)$	127,000		
Less: employee's contribution $(3,000 \times 12)$	36,000		
		91,000	
			796,400
2. Income from Agriculture (section: 26 & 27):			
Sale of Jute	50,000		
Sale of rice	300,000		
		350,000	
Less: Admissible expenses –			
Production cost $(350,000 \times 60\%)$	210,000		
Land development tax	2,000		
Allowable depreciation	10,000	222,000	
			128,000
3. Income from Business or Profession (sec:28–30):			
Losses from sole proprietorship business			(7,300)
4. Share of Profit in a Partnership Firm:			80,000
5. Income from other sources (section: 33 & 34):			
Income from writing article in newspaper		2,000	
Income from mooring terminal		1,400	
Dividend $(28,800 \times 100 \div 90)$	32,000		
Less: Exempted – up to Tk. 25,000	25,000		
		7,000	
Interest on bank deposit $(3,870 \times 100 \div 90)$		4,300	
			14,700
Total income			1,011,800

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Calculation of Tax liability:				Calculation of Allowable investment	
		Rates	Tk.		Tk.
On first Tk.	250,000	0%	-	Life insurance premium	50,000
On next Tk.	400,000	10%	30,000	Welfare fund	10,000
On next Tk.	361,800	15%	54,270	Share purchase	80,000
Total	<u>1,011,800</u>		84,270	Donation to zakat fund	16,250
Less: Rebate on profit from				Donation to relief fund	15,000
partnership firm (avg. rate)			(6,664)	Group insurance prem.	2,000
Investment tax credit @ 15%			(25,988)	Actual investment	<u>173,250</u>
Net Tax Liability			51,618	Maximum limit:	
Less: Tax deducted at source			3,630	25% of 10,11,800	252,950
			47,988	Or,	15,000,000
Add: 10% surcharge on tax			5,162	Lower one	
Net Tax Liability			<u>53,150</u>	Allowable investment	<u>1,73,250</u>

Notes: (1) If proper books of account have not been maintained by the assessee, 60% of sales proceeds will be treated as admissible production cost. (2) On the profit from partnership firm rebate is allowable at an average rate which is 8.33% $[84,270 \div 1,011,800 \times 100]$. Therefore total rebate is Tk. 6,664 $[80,000 \times 8.33\%]$. (3) Tax deducted at source includes Tk. 3,200 on divided income and Tk. 430 on interest on bank deposit. (4) 10% surcharge on tax for net wealth exceeding Tk. 2.25 crore $(51,618 \times 10\%)$ has been charged.

Illustration 18A – 9:

Calculate taxable income and net tax liability for Mr. Razib for the income year 2016-2017 considering:

Income from salary: He has joined the firm on 1.1.16 and is entitled to receive basic salary of Tk. 10,000 per month with an annual increment on 1st January every year by 10% of latest basic. He is also entitled to receive accommodation facilities for which he will be charged 5% of his basic salary and two festival bonus (both of which he received before increment of current income year). He received Tk. 1,000 per month as mobile bill allowance; Tk. 2,700 per month as conveyance allowance; Tk. 30,000 as overtime allowance for the year; and Tk. 3,000 as leave encashment.

Income from security: Mr. Razib invested Tk. 100,000 in 11% tax exempt government security; Tk. 120,000 in a 12% taxable government security; Tk. 200,000 in a 14% debenture. During the year his income from zero coupon bond was Tk. 10,000.

Income from agriculture: Income from lease of - cultivable land Tk. 20,000 & non agricultural land Tk. 37,000.

Income from other sources: Profit from islami bank account Tk. 5,400; and Dividend from share Tk. 10 per share where he was holding 10,000 shares. Mr. Razib paid life insurance premium of Tk. 40,000 (policy value Tk. 500,000); contributed to local club Tk. 5,000; purchase of primary share and securities Tk. 30,000 and deposited Tk. 3,000 per month in a pension scheme.

Solution 18A – 9:

Mr. Razib

Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

Calculation of taxable income

	Tk.	Tk.	Tk.
1. Income from Salary (section: 21):			
Basic salary $\{(10,000 \times 6) + (11,000 \times 6)\}$		126,000	

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Concession rated accommodation:			
25% of basic salary	31,500		
Less: employee's contribution (126,000 × 5%)	<u>6,300</u>	25,200	
Festival bonus (10,000 × 2)		20,000	
Mobile bill allowance (1,000 × 12)		12,000	
Conveyance allowance (2,700 × 12)	32,400		
Less: exempted (maximum Tk. 30,000)	<u>30,000</u>	2,400	
Overtime allowance		30,000	
Leave encashment		<u>3,000</u>	218,600
2. Income from Securities (section: 22 & 23):			
Interest from tax exempt government securities	11,000		
Less: exempted (full)	<u>11,000</u>	-	
Interest from taxable government securities		14,400	
Interest from debenture		28,000	
Income from zero coupon bond	10,000		
Less: exempted (full)	<u>10,000</u>	-	42,400
3. Income from Agriculture (section: 26 & 27):			
Lease of cultivable land			20,000
4. Income from other sources (section: 33 & 34):			
Lease of non-agricultural land		37,000	
Interest from savings bank account (Gross)		6,000	
Dividend income (10,000 × 10)	100,000		
Less: Exempted – up to Tk. 25,000	<u>25,000</u>	<u>75,000</u>	118,000
Total income			<u>399,000</u>

Calculation of Tax liability:				Calculation of Allowable investment	
		Rates	Tk.		Tk.
On first Tk.	250,000	0%	-	Life insurance premium	40,000
On next Tk.	149,000	10%	14,900	DPS	36,000
Total	399,000		14,900	Share purchase	30,000
Less: Investment tax credit @ 15%			<u>14,963</u>	Actual investment	<u>106,000</u>
			<u>(63)</u>	Maximum limit:	
Minimum tax			5,000	Lower of 25% of 399,000	99,750
Less: Tax deducted at source			<u>12,720</u>	Or,	<u>15,000,000</u>
Tax refund claim			<u>(7,720)</u>	Allowable investment	<u>99,750</u>

Notes: (1) TDS includes Tk. 720 from taxable government securities, Tk. 1,400 from debentures, Tk. 600 from interest on savings bank account and Tk. 10,000 from dividend income. **(2)** As net tax liability becomes negative, he doesn't need to pay any additional amount rather he will get tax refund and can adjust the amount in next year.

Illustration 18A – 10:

For the income year ended on 30th June, 2017, Mr. Ahmed states his income from: basic salary of Tk. 18,500 in the month of June, 2017 following the scale of his salary 17,000 – 1,500 – 20,000. The date of annual increment of his salary is 1st April. Besides basic salary he received dearness allowance @ 15% of basic salary; Entertainment allowance and Medical allowance @ 20% and @10% of basic salary respectively; Annual bonus and fees Tk. 35,916; house rent allowance Tk.

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11,000 per month; conveyance allowance Tk. 1,250 per month. He contributes 10% of basic salary in a recognized provident fund (RPF) and his employer also contributes the same in the fund. During the year he received Tk. 15,000 as interest on provident fund and the rate of interest was 15%. He contributes to old age fund @ 5% of basic salary. Mr. Ahmed invested Tk. 40,000 in 12% tax exempt government securities, Tk. 50,000 in 10% taxable government securities, and Tk. 100,000 in 15% debentures. He financed Tk. 100,000 taking 8% loan to purchase the debentures. Bank charge Tk. 2,380 as collection fee of these interests. Income from other sources Tk. 27,809.

Mr. Ahmed made and incurred investment and expenses during the said year for: Life insurance premium Tk. 6,000 (value of the policy worth Tk. 70,000); Purchase of Books Tk. 6,000 and purchase of scientific instruments Tk. 10,000; Purchase of Primary Shares of Public Limited Company Tk. 20,000; Donation to religious institutions Tk. 8,000; donation to Govt. Zakat Fund Tk. 7,500; donation to president relief fund Tk. 28,000; donation to a local club Tk. 9,000; donation to a blind school Tk. 15,000; Purchase of a piece of land worth Tk. 70,000 in the name of his wife and a sum of Tk. 5,000 was spent for its registration; Spent a sum of Tk. 15,000 as educational expenses of his children; Purchase of ICB certificate Tk. 20,000; Purchase of Gold Tk. 20,000; and Contribution to group insurance Tk. 2,000. Ascertain his total income and tax liability.

Solution 18A – 10:

Mr. Ahmed Income Year: 2016 – 2017 Assessment Year: 2017 – 2018 Calculation of taxable income			
	Tk.	Tk.	Tk.
1. Income from Salary (section: 21):			
Basic salary (Note – 1)		208,500	
Dearness allowance @ 15%		31,275	
Entertainment allowance @ 20%		41,700	
Medical allowance @ 10%	20,850		
Less: lower of Tk 120,000 or 10% of B.S.	20,850	-	
Annual bonus and fees		35,916	
House rent allowance: (11,000 × 12)	132,000		
Less: lower of 50% of basic salary 104,250			
Or, Tk. 25,000 per month 300,000	104,250	27,750	
Conveyance allowance (1,250 × 12)	15,000		
Less: exempted (maximum Tk. 30,000)	15,000	-	
Employer's contribution to RPF		20,850	
Interest from RPF	15,000		
Less: lower of Interest @ 14.50% 14,500			
Or, 1/3 of basic salary [208,500 ÷ 3] 69,500	14,500	500	
			366,491
2. Income from Securities (section: 22 & 23):			
Interest from tax exempt government securities	4,800		
Less: exempted (full)	4,800	-	
Interest from taxable government securities	5,000		
Less: Admissible expense -			
Bank charge (2,380 ÷ 23,800 × 4,750)	475	4,525	

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Interest from debentures (100,000 × 15%)	15,000		
Less: Admissible expense -			
Bank charge (2,380 ÷ 23,800 × 14,250)	(1,425)		
Interest on borrowed fund (100,000 × 8%)	(8,000)	5,575	10,100
3. Income from other sources			27,809
Total			<u>404,400</u>

Calculation of Tax liability:				Calculation of allowable investment:	
		Rates	Tk.		Tk.
On first Tk.	250,000	0%	-	Insurance premium	6,000
On next Tk.	154,400	10%	15,440	Purchase of primary shares	20,000
Total	<u>404,400</u>		15,440	Donation to Zakat fund	7,500
Less: Investment tax credit				Donation to relief fund	28,000
(114,915 × 15%)			17,237	Donation to a blind school	15,000
			<u>(1,797)</u>	Purchase of ICB certificate	20,000
Minimum tax amount			5,000	Contribution to group insurance	2,000
Less: Tax deducted at source			1,000	Contribution to RPF (20,850 × 2)	41,700
Tax liability			<u>4,000</u>	Contribution to old age fund	10,425
				Actual allowable investments	<u>150,625</u>

Notes: (1) Maximum limit of allowable investment: lower of 25% of total income = (404,400 × 25% = Tk. 101,100 or, Tk. 15,000,000. So, allowable investment for tax credit is maximum 101,100. As the actual allowable investment is Tk. 150,625. Mr. Ahmed will get 15% rebate on Tk. 101,100. (2) After increment on April 1, 2016 Mr. Ahmed receives basic salary of Tk. 18,500 whereas before increment he received basic salary of Tk. 17,000. So his basic Salary for the income year is (17,000 × 9 + 18,500 × 3) = Tk. 208,500. (3) Bank charge collection fees for the amount of interest collected by the bank. Total interest collected by bank considered after deduction 5% TDS on interest from taxable government securities and debentures. (4) Total bank charge of Tk. 2,330 was charged for collection of total interest of Tk. 23,800 (4,800 + 4,750 + 14,250). So a proportionate bank charge is deducted from each source of interest as an admissible expense except in case of tax exempt government securities. (5) Total TDS is from the taxable government securities Tk. 250, from debentures Tk. 750.

Illustration 18A – 11:

Mr. Hafiz is the employee of a private textile firm. From the following particulars of his income for the year ended 30th June, 2017 calculate taxable income and tax liability.

His basic salary is Tk. 12,000 per month, he receive 10% of his basic salary as conveyance allowance and 60% as house rent allowance. He also receives entertainment allowance Tk. 3,000 p.m., medical allowance Tk. 1,200 p.m., and two festival bonuses (each equal to half of one month's basic salary). He and his employer both contribute 10% of basic salary to recognized provident fund and during the year he received interest @ 12% from the fund Tk. 3,000. During the year Mr. Hafiz received interest from 12% taxable government securities Tk. 19,000. He invested Tk. 300,000 in 10% debentures on 1st July, 2013. Bank has charged 5% as collection fees. Mr. Hafiz also received dividend from share of a public limited company Tk. 3,600, interest from post office savings account Tk. 2,250, sale of forest timber Tk. 4,000 and win a lottery income of Tk. 300,000 (TDS deducted @ 20% Tk. 60,000). During the year Mr. Hafiz purchased savings certificate of Tk. 16,200 and donated Tk. 20,000 to Dhanmondi sports club.

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Solution 18A – 11:

Mr. Hafiz

Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

Calculation of tax payable income

		Tk.	Tk.	Tk.
1. Income from Salary (section: 21):				
Basic salary (12,000 × 12)			144,000	
Conveyance allowance (144,000 × 10%)		14,400		
Less: exempted (maximum Tk. 30,000)		14,400	-	
House rent allowance: (144,000 × 60%)		86,400		
Less: lower of 50% of basic salary	72,000			
Or, Tk. 25,000 per month	300,000	72,000	14,400	
Entertainment allowance (3,000 × 12)			36,000	
Medical allowance (1,200 × 12)		14,400		
Less: lower of Tk. 120,000 or 10% of B.S.		14,400	-	
Festival bonus [(12,000 ÷ 2) × 2]			12,000	
Employer's contribution to RPF			14,400	
Interest from RPF		3,000		
Less: lower of Interest @ 14.50%	3,625			
Or, 1/3 of basic salary	48,000	3,625	-	220,800
2. Income from Securities (section: 22 & 23):				
Interest from taxable govt. securities (gross)		20,000		
Less: Admissible expense – Bank charge (note – 2)		950	19,050	
Interest from debentures		30,000		
Less: Admissible expense – Bank charge		1,450	28,550	47,600
3. Income from other sources (section: 33 & 34):				
Dividend income [(3,600 ÷ 90) × 100]		4,000		
Less: Exempted – up to Tk. 25,000		4,000	-	
Interest from Post. Sav. account (2,250 × 100 ÷ 90)			2,500	
Sale of forest timber			4,000	6,500
Total income excluding income on which minimum tax is applicable u/s 82(C) (Regular source)				274,900
Prize money of a lottery u/s 82C(Note - 6)				300,000
Total income				574,900

Calculation of Tax liability:				Calculation of Allowable investment	
		Rates	Tk.		Tk.
On first Tk.	250,000	0%		Savings certificate	16,200
On next Tk.	324,900	10%	32,490	Contribution to RPF	28,800
Total	574,900		32,490	Actual investment	45,000
Less: Investment tax credit @ 15%			6,750	Maximum limit:	
			25,740	25% (574,900 – 300,000)	68,725
Less: Tax applicable on regular source			2,490	Or,	1,50,00,000
Tax liability for lottery income			23,250	Lower one	
				Allowable investment	45,000

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Notes: (1) Bank charge 5% is on the amount of interest collected by the bank after deducting 5% TDS (2) Both employee and employer's contribution to RPF is an allowable investment. (3) As actual investment does not exceed maximum limit of investment, here allowable investment for tax credit is the amount of actual investment. (4) Though tax has already been deducted at source from the taxable government securities, debentures, interest from post. savings account, from dividend and from lottery income, at the time of calculating net tax liability TDS of Tk. 63,150 (1,000 + 1,500 + 400 + 250 + 60,000) has been adjusted. (5) Minimum tax provision has been applicable on lottery income u/s 82C. (6) TDS on lottery income was Tk. 60,000, which is less than the regular rate of tax. So, tax liability for lottery income will be Tk. 60,000. So total tax liability will be (2,490 + 60,000) = 62,490 and net tax liability will be (62,490 – 63,150) = (Tk. 660) which will be the refund claim.

Illustration 18A – 12:

Calculate Mr. Adib Ahsan's taxable income and tax liability for the assessment year 2016-17 considering:

Income from Salary: Basic salary Tk. 22,000 per month; Dearness allowance 10% of basic salary; Medical allowance Tk. 2,000 p.m.; Two festival bonus, each equal to one month's basic salary; Annual performance bonus equal to four month's basic salary; Mr. Ahsan received free accommodation from his office which has annual rental value of Tk. 120,000 and a full time car. Leave encashment during the year was Tk. 6,600. He and his employer both contribute 10% of basic salary to a recognized provident fund.

Income from House Property: Mr. Adib is the owner of a three storied house at Dhanmondi, Dhaka. He let out each floor at a monthly rent of Tk. 10,000. Annual municipal value of the house is Tk. 300,000. Beside all the repair and maintenance expenses, he paid municipal tax of Tk. 8,000; insurance premium Tk. 20,000; interest on mortgage loan Tk. 3,000 for the house. The ground floor remains vacant for 2 month during the year.

Income from Business or Profession: Profit from sole proprietorship business Tk. 155,000. In the previous year he incurred loss of Tk. 40,000 in the same business and carry forwarded Tk. 5,000 for set off in this year. During the year he also earned profit from partnership firm Tk. 120,000.

Income from other sources: Dividend received Tk. 54,000 from a public limited company; Income from talk show Tk. 10,000; Interest received from bank savings account Tk. 2,700. During the year Mr. Ahsan incurred expenses for: He paid Tk. 40,000 and Tk. 35,000 as insurance premium for his own and his spouse. He purchased share from secondary market Tk. 7,200. He also purchased medical books for Tk. 15,000 during the year. He donated Tk. 30,000 to prime minister's relief fund; Tk. 20,000 to his relatives and Tk. 35,000 to Aga Khan Development Foundation.

Solution 18A – 12:

Mr. Adib Ahsan

Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

Calculation of taxable income

	Tk.	Tk.	Tk.
1. Income from Salary (section: 21):			
Basic salary (22,000 × 12)		264,000	
Dearness allowance		26,400	
Medical allowance (2,000 × 12)	24,000		
Less: lower of Tk. 120,000 or 10% of B.S.	26,400	-	
Festival bonus (22,000 × 2)		44,000	

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Performance bonus ($22,000 \times 4$)		88,000	
Accommodation facilities: lower of Rental value	1,20,000		
and 25% of Basic Salary ($264,000 \times 25\%$)	<u>66,000</u>	66,000	
Conveyance facilities:			
Higher of Tk. 60,000 or ($264,000 \times 5\%$)		60,000	
Leave encashment		6,600	
Employer's contribution to RPF		<u>26,400</u>	5,81,400
2. Income from House Property (section: 24 & 25):			
Actual rental value ($10,000 \times 3 \times 12$)	360,000		
Municipal value	<u>300,000</u>		
Annual value (whichever is higher)		360,000	
Less: Admissible expenses –			
Repair and maintenance ($360,000 \times 25\%$)	90,000		
Municipal tax	8,000		
Insurance premium	20,000		
Interest on mortgage loan	3,000		
Vacancy allowance [$(360,000 \div 3) \times 2 \div 12$]	<u>20,000</u>	<u>141,000</u>	219,000
3. Income from Business or Profession (sec:28–30):			
Income from sole proprietorship business		155,000	
Less: set off previous year's loss		<u>5,000</u>	150,000
4. Share of Profit in a Partnership Firm:			
			120,000
5. Income from other sources (section: 33 & 34):			
Dividend income ($54,000 \times 100 \div 90$)	60,000		
Less: Exempted – up to Tk. 25,000	<u>25,000</u>	35,000	
Income from talk show		10,000	
Interest on savings account ($2,700 \times 100 \div 90$)		<u>3,000</u>	48,000
Total Income			<u>1,118,400</u>

Calculation of Tax liability:				Calculation of Allowable investment	
		Rate	Tk.		Tk.
On first Tk.	250,000	0%	-	Life insurance premium:	
On next Tk.	400,000	10%	40,000	Own	40,000
On next Tk.	<u>468,400</u>	15%	<u>70,260</u>	Spouse	35,000
Total	1,118,400		110,260	Share purchase	7,200
Less: rebate on partnership profit			11,832	Donation to PMRF	30,000
Less: Investment tax credit			30,000	Aga Khan Foundation	35,000
Less: Tax deducted at source			6,300	Contribution to RPF	<u>52,800</u>
Tax liability			<u>62,128</u>	Actual investment	<u>200,000</u>

Notes: (1) Maximum limit of allowable investment is lower of 25% of Tk. 1,118,400 e.g., Tk. 279,600 or Tk. 15,000,000. Actual investment is within the limit. So, investment tax credit is 15% on Tk. 200,000. (2) It is assumed that the car facility is exclusively used by Mr. Adib Ahsan for personal purpose. (3) Both employee and employer's contribution to RPF is an allowable investment. (4) Tax rebate at an average rate is allowable for income from partnership firm. Here, the average rate is 9.86% [$(110,260 \div 1,076,600) \times 100$]. So the amount of tax rebate is Tk. 11,832. (5) TDS of Tk. 6,300 (Tk. 6,000 from dividend + Tk. 300 from interest on savings account) has been adjusted to identify net tax liability.

Illustration 18A – 13:

Compute total income and Tax liability of Mr. Abdullah for the assessment year 2017-18 considering his income for the income year 2016 – 2017 as:

Income from Salary: On July, 2016, basic salary Tk. 10,200 in the scale of 9,320 – 440 × 10 - 13,720. His date of yearly salary increment is on 1st April. He received Dearness Allowance @ 10% of B.S. and Medical Allowance of Tk. 300 per month. He received two bonuses equivalent to one month's basic salary – one received before date of increment and another after increment. He contributes 10% of his basic salary to unrecognized Provident Fund. He has been provided with a quarter for which 7.5% B.S. is deducted. He received interest on Provident Fund Tk. 6,000 at an interest rate of 13%. He has been provided with a car for office and private use.

Income from Securities: 8% tax exempt government securities Tk. 25,000; Interest on taxable government securities Tk. 3,325; and Interest on debenture Tk. 19,000. He paid bank charge Tk. 800 to collect interest from tax exempt government Securities.

Income from House Property: He has a house. Half of the house is let out at Tk. 12,000 per month and the other half is used for his residence. The Municipal Value of the house is Tk. 300,000. Expenses of the house for the year were as follows: Land development tax Tk. 1,000; Repair Tk. 38,000; Interest on H.B.F.C. Loan Tk. 45,000; maintenance for Water Pump, etc. Tk. 6,000 and Municipal Taxes Tk. 5,400. The house remained vacant for two months during the year.

Agricultural Income: Income from rubber garden Tk. 20,000 and Sale of Agri-products Tk. 400,000. Other expenses (excluding production cost) relating to agricultural were Tk. 5,000.

Business Income: Income from sole-tradership business Tk. 40,000; last year loss carried forward Tk. 20,000.

Other income: Interest on Bank Deposits (Gross) Tk. 10,000; Dividend income Tk. 9,000; Profit from Islami Bank Tk. 9,000. During the year he incurred expenses for: Insurance premium paid (Policy value Tk. 300,000) Tk. 20,000; Purchase primary share of a listed company Tk. 20,000; Purchased Law and academic books Tk. 5,000; Donated to Deposit pension Scheme per month Tk. 1,000; Paid to Government Zakat Fund Tk. 5,000; and Purchase of savings certificate Tk. 20,000.

Solution 18A – 13:

Mr. Abdullah

Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

Calculation of taxable income

	Tk.	Tk.	Tk.
1. Income from Salary (section: 21):			
Basic salary [(10,200 × 9) + (10,640 × 3)]		123,720	
Dearness allowance		12,372	
Medical allowance (300 × 12)	3,600		
Less: lower of Tk. 120,000 or 10% of B.S.	12,372	-	
Bonus (10,200 + 10,640)		20,840	
Accommodation facilities: (123,720 × 25%)	30,930		
Less: charge @ 7.5% of basic salary	9,279	21,651	
Conv. facilities: Higher of Tk. 60,000 or 5% of BS		60,000	238,583
2. Income from Securities (section: 22 & 23):			
Interest from tax exempt government securities	2,000		
Less: exempted (full)	2,000	-	

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Interest from taxable govt. securities (gross)	3,500		
Interest from debenture	20,000	23,500	
3. Income from House Property (section: 24 & 25):			
Annual Value: higher of actual rental value (12,000 × 12) and Municipal value (300,000 × ½)	150,000		
Less: Admissible expenses –			
Repair and maintenance (150,000 × 25%)	37,500		
Municipal tax (½)	2,700		
Land development tax (½)	500		
Interest on HBFC loan (½)	22,500		
Vacancy allowance (150,000 × 2 ÷ 12)	25,000	88,200	61,800
4. Income from Agriculture (section: 26 & 27):			
Sale of agri-products	400,000		
Income from rubber garden (20,000 × 60%)	12,000	412,000	
Less: Admissible expenses –			
Production costs (400,000 × 60%)	240,000		
Others	5,000	245,000	167,000
5. Income from Business or Profession (sec:28–30):			
Income from sole proprietorship business	43,343		
Less: set off previous year's loss	20,000	23,343	
Income from rubber garden (20,000 × 40%)		8,000	31,343
6. Income from other sources (section: 33 & 34):			
Interest on bank deposit (gross)		10,000	
Dividend income (9,000 × 100 ÷ 90)	10,000		
Less: Exempted – up to Tk. 25,000	25,000	-	
Profit from Islami bank (9,000 × 100 ÷ 90)		10,000	20,000
Total			542,226

Calculation of Tax liability:				Calculation of Allowable investment	
On first Tk.	250,000	@ 0%	Tk. -		Tk.
On next Tk.	292,226	@ 10%	29,223	Life insurance premium	20,000
Total	542,226		29,223	Share purchase	20,000
Less: Investment tax credit @ 15%			11,550	Deposit pension scheme	12,000
			17,673	Donation to Zakat fund	5,000
Less: Tax deducted at source			4,175	Purchase of savings certificate	20,000
Tax liability			13,498	Actual investment	77,000

Notes: (1) Maximum limit of allowable investment is lower of 25% of 542,226 e.g., Tk. 135,557 or Tk. 15,000,000. (2) Basic salary for the first nine months @ Tk. 10,200 and for the last three months with increment @ Tk. 10,640 (10,200 + 440). (3) Employee's contribution to unrecognized provident fund is not an allowable investment. (4) Total amount of TDS is Tk. 4,175 [Tk. 175 from taxable govt. securities, Tk. 1,000 from debentures, Tk. 1,000 from interest on saving account, Tk. 1,000 from dividend and Tk. 1,000 from profit from Islami Bank].

Illustration 18A – 14:

Mr. Mahid is the chief accountant of a company. Considering the given data ascertain his total income and tax to be paid in the assessment year of 2017 – 2018. Income from Salary Tk. 300,000;

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Income from Security Tk. 15,000; Income from House Property Tk. 250,000; Agriculture income includes: Income from tea garden Tk. 15,000 and other agricultural income Tk. 30,000; Income from Business or Profession includes: Income from sole proprietorship business Tk. 360,000 and last year's loss carried forward Tk. 20,000; Dividend from Mutual Fund Tk. 27,000; Dividend from Unit Fund Tk. 18,000; Dividend from a limited company Tk. 27,000; Interest from bank deposit Tk. 2,700; Interest from post office savings bank Tk. 27,000; Royalty received as an author Tk. 40,000.

Mr. Mahid purchased a machine for his sole proprietorship business on 1st August 2009 at Tk. 180,000. On 31st March 2017 it was sold for Tk. 210,000 when the WDV was Tk. 120,000. Mr. Mahid made investment and expenses during the said year for: Life insurance premium Tk. 12,000 (value of the policy worth Tk. 100,000); Deposited to pension scheme per month Tk. 1,000; Household expenses Tk. 18,000; Investment in primary share of a listed company Tk. 20,000; Investment in Recognized Provident Fund (RPF) both by employee and employer total Tk. 36,000; Donated to prime minister's relief fund Tk. 100,000; and Purchase of ICB certificate Tk. 20,000

Solution 18A – 14:

Mr. Mahid

Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

Calculation of taxable income

	Tk.	Tk.	Tk.
1. Income from Salary (section: 21):			300,000
2. Income from Securities (section: 22 & 23):			15,000
3. Income from House Property (section: 24 & 25):			250,000
4. Income from Agriculture (section: 26 & 27):			
Income from tea garden (15,000 × 60%)	9,000		
Other agricultural income	30,000	39,000	
Less: Admissible expenses –			
Production costs (30,000 × 60%)		18,000	
			21,000
5. Income from Business or Profession (sec:28–30):			
Income from sole proprietorship business	360,000		
Less: Capital gain included thereon	(30,000)		
Less: set off previous year's loss	(20,000)	310,000	
Income from tea garden (15,000 × 40%)		6,000	316,000
6. Capital gain (section: 31 & 32):			30,000
7. Income from other sources (section: 33 & 34):			
Dividend from mutual fund (27,000 × 100 ÷ 90)	30,000		
Dividend from unit fund (18,000 × 100 ÷ 90)	20,000		
	50,000		
Less: exemption – up to 25,000	25,000		
		25,000	
Dividend from company (27,000 × 100 ÷ 90)	30,000		
Less: Exempted – up to Tk. 25,000	25,000	5,000	
Interest from bank deposit (2,700 × 100 ÷ 90)		3,000	
Interest from post office (27,000 × 100 ÷ 90)		30,000	
Royalty received as an author		40,000	103,000
Total			<u>1,035,000</u>

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Calculation of Tax liability:				Calculation of Allowable investment	
		Rates	Tk.		Tk.
On first Tk.	250,000	0%	-	Life insurance premium	10,000
On next Tk.	400,000	10%	40,000	Share purchase from	
On next Tk.	355,000	15%	53,250	primary market	20,000
On capital gain	30,000	9.44%	2,832	Employee & employers	
Total	1,035,000		96,082	contribution to RPF	36,000
Less: Investment tax credit @ 15%			29,700	Deposit pension scheme	12,000
			66,382	Donation to prime	
Less: Tax deducted at source			11,300	minister's relief fund	100,000
Tax liability			<u>55,082</u>	Purchase of ICB certificate	20,000
				Actual investment	<u>198,000</u>

Notes: (1) Maximum limit of allowable invest is lower of 25% of 1,035,000 e.g., Tk. 258,750 or, Tk. 15,000,000. Here, the actual allowable investment is within the limit and so, investment tax rebate is allowed on the actual investment. (2) It is assumed that no book of accounts was kept for agricultural income and expenses. So 60% of other agricultural income is considered as the production cost. (3) Capital gain arises when the selling price of an assets exceed the cost price. Here, the machine was sold for Tk. 210,000 whereas the cost price was Tk. 180,000. So, the amount of capital gain is Tk. 30,000 (210,000 – 180,000). Assuming that the revenue gain portion is included in the income of sole-tradership business. (4) As the capital gain arises after five years from acquisition, tax on capital gain is calculated separately using the rate whichever is lower between 15% and average rate. Here, at the time of calculating average rate total income is inclusive of the said capital gain. (5) Here, total tax deducted at sources is Tk. 11,300 consists of Tk. 3,000 from dividend, 5,000 from unit and mutual fund dividend, Tk. 3,000 from post office bank and Tk. 300 from interest on saving account. (6) Average rate = [(Total tax liability ÷ Total taxable income) × 100]. Here, under regular rates total tax liability on total taxable income is Tk. 97,750. So, the average rate is 9.44%.

Illustration 18A – 15:

Mr. Jewel is an executive of a private firm and received basic salary of Tk. 18,000 per month. His other income for the income year 2016 – 2017 includes: House rent allowance Tk. 10,800 per month; Medical allowance Tk. 1,200 per month; Dearness allowance @ 5% of Basic Salary; Two festival bonus each equal to one month's Basic Salary; Interest from Recognized Provident Fund Tk. 12,000; Performance bonus equal to three month's Basic Salary; He contributes to old age fund @ 5% of basic salary. His employer provides him a car for full time use. He also received Tk. 950 per month as entertainment allowance out of which he spends Tk. 4,000 during the year. He withdrawn two month's basic salary in advance and contributes to Recognized Provident Fund (RPF) @ 10% of Basic Salary and his employer also contributed the same amount.

Mr. Jewel received interest from tax exempt government securities Tk. 6,100, interest from taxable government securities Tk. 4,750 and interest from debentures Tk. 16,150. Bank charge collection fees of Tk. 1,350 against the interest collected by the bank. Mr. Jewel borrowed Tk. 5,000 @ 12% to finance investment in debentures.

Mr. Jewel is the owner of a three-storied building at Mohakhali. Mr. Jewel resides with his family in the 2nd floor, one flat in the ground floor is let out to a medical chamber and all other flats (in each floor there are two flats) are let out at a monthly rent of Tk. 9,000 per flat. The municipal value of the house is Tk. 675,000. The following expenses were incurred for that house: Repair expenses Tk. 150,000; City Corporation tax Tk. 1,200 per quarter; White wash expense Tk. 15,000; Insurance premium Tk. 3,000; Electricity for water pump Tk. 5,000; Caretaker's salary Tk. 2,000 per

month (which was paid by the tenants); Land revenue paid Tk. 3,000; Mortgage loan paid Tk. 53,750 (of which Tk. 3,750 is interest on loan); Interest paid to HBFC Tk. 6,000; Alteration cost for ground floor Tk. 30,000. One flat in the level 3 remains vacant for two and half months during the year.

His incomes from other sources are: Interest on fixed deposit Tk. 12,420; Income from writing column in newspaper Tk. 500; Income from sale of forest timber Tk. 32,000; Sale of used furniture Tk. 6,000 (Cost price Tk. 11,000). Mr. Jewel made and incurred investment and expenses during the said year for: Life insurance premium Tk. 30,000 (policy value Tk. 250,000); Purchase of Shares of a co-operative society Tk. 40,000; Purchase of Share from IPO Tk. 25,000; Donation to Educational and Religious institutions Tk. 8,000; donation to Zakat fund Tk. 35,500; donation to a local club Tk. 9,000; Spent a sum of Tk. 15,000 as educational expenses of his children; Purchase of ICB certificate Tk. 20,000 and Contribution to group insurance Tk. 2,000. Ascertain his total income and tax liability to be paid in the assessment year of 2017 – 2018.

Solution 18A – 15:

Mr. Jewel				
Income Year: 2016 – 2017; Assessment Year: 2017 – 2018				
Calculation of taxable income				
		<u>Tk.</u>	<u>Tk.</u>	<u>Tk.</u>
1. Income from Salary (section: 21):				
Basic salary (18,000 × 12)			216,000	
Medical allowance (1,200 × 12)		14,400		
Less: lower of Tk. 120,000 or 10% of B.S.		<u>21,600</u>	-	
Festival bonus (18,000 × 2)			36,000	
Performance bonus (18,000 × 3)			54,000	
House rent allowance (10,800 × 12)		129,600		
Less: lower of 50% of Basic salary	108,000			
Or, Tk. 20,000 per month	<u>240,000</u>	<u>1,08,000</u>	21,600	
Dearness allowance (216,000 × 5%)			10,800	
Employer's contribution to RPF			21,600	
Interest from RPF		12,000		
Less: lower of Interest @ 14.50%	12,000			
Or, 1/3 of basic salary	<u>72,000</u>	<u>12,000</u>		
Conv. Facility: Higher of Tk. 60,000 or (216,000 × 5%)			60,000	
Entertainment allowance (950 × 12)			11,400	
Advance salary (18,000 × 2)			<u>36,000</u>	467,400
2. Income from Securities (section: 22 & 23):				
Interest from tax exempt government securities		6,100		
Less: exemption (full)		<u>6,100</u>		
Interest from taxable govt. securities (gross)		5,000		
Less: Admissible expenses –				
Bank charge (4,750 × 1,350 ÷ 27,000)		<u>238</u>	4,762	
Interest from debentures		17,000		
Less: Admissible expenses –				
Bank charge (16,150 × 1,350 ÷ 27,000)	808			
Interest on borrowed fund	<u>600</u>	<u>1,408</u>	<u>15,592</u>	20,354

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3. Income from House property (section - 24):

Annual value (residential part):			
Actual rental value (9,000 × 12 × 3)	324,000		
Add: Owner's expenses paid by the tenants	24,000		
	348,000		
Municipal value (675,000 × 3 ÷ 6)	337,500		
Annual value (higher one)		348,000	
Annual value (commercial part):			
Actual rental value (9,000 × 12)	108,000		
Municipal value (675,000 × 1 ÷ 6)	112,500		
Annual value (higher one)		112,500	
Annual value of the house		460,500	
Less: Admissible expenses:			
Repair & maintenance	120,750		
City corporation tax (1,200 × 4 × 4 ÷ 6)	3,200		
Insurance premium (3,000 × 4 ÷ 6)	2,000		
Land revenue paid (3,000 × 4 ÷ 6)	2,000		
Mortgage interest paid (3,750 × 4 ÷ 6)	2,500		
Interest paid to HBFC (6,000 × 4 ÷ 6)	4,000		
Vacancy allowance (348,000 ÷ 3 × 2.5 ÷ 12)	24,167	158,617	301,883
4. Income from other sources (section: 33 & 34):			
Interest on fixed deposit (12,420 × 100 ÷ 90)		13,800	
Income from writing column in newspaper		500	
Sale of forest timber		32,000	46,300
Total income			835,937

Calculation of Tax liability:				Calculation of Allowable investment	
		Rates	Tk.		Tk.
On first Tk.	250,000	0%	-	Contribution to old age fund	10,800
On next Tk.	400,000	10%	40,000	Life insurance premium	25,000
On next Tk.	185,937	15%	27,891	IPO Share purchase	25,000
Total	786,633		67,891	Contribution to RPF	43,200
Less: Investment tax credit			24,225	Donation to Zakat fund	35,500
			43,666	Purchase of ICB certificate	20,000
Less: Tax deducted at source			2,480	Group insurance	2,000
Tax liability			41,186	Actual investment	161,500

Notes: (1) Maximum limit of allowable investment for tax credit is lower of Tk. 15,000,000 or (835,937 × 25%) i.e., 208,984. Here, actual investment is less than the maximum limit. So, investment tax rebate should be on Tk. 161,500. (2) Actual spending for entertainment expense does not influence taxable income. (3) Total interest collected by the bank was Tk. 27,000 (6,100 + 4,750 + 16,150) and the amount of collection fees charged by the bank was Tk. 1,350. A proportionate bank charge is admissible against the interest collected from different securities. (4) Repair expense for all the let out part is 25% of annual value except the part used for medical chamber (commercial purpose). So repair expense is Tk. 120,750 [(348,000 × 25%) + (112,500 × 30%)]. (5) The amount of TDS on taxable government securities Tk. 250 [5,000 × 5%], on debenture Tk. 850 and on interest on fixed deposit Tk. 1,380 [13,800 – 12,420] should be readjusted to identify net tax liability of the assessee. (6) Purchase of shares from stock market is allowable investment.

Illustration 18A – 16:

Calculate taxable income and net tax liability for the assessment year 2017 – 2018 for Mr. Arup Ahmed considering:

Income from salary (after all adjustment following ITO, 1984) Tk. 205,000;

Income from Securities and House Property: He received interest from tax exempt government securities Tk. 8,000 and interest from taxable government securities Tk. 4,275. Besides these sources he has investment in different securities on which interest has also been received. His investment in 12% taxable government securities is Tk. 50,000; 13% debentures Tk. 70,000. Collection fee is 5% on the amount of interest collected by bank.

Mr. Arup is the owner of a four-storied building at Mohakhali. Mr. Arup resides with his family in the 2nd floor and all other floors (in each floor there are two flats) are let out at a monthly rent of Tk. 9,000 per flat. The municipal value of the house is Tk. 900,000. Expenses that were incurred in the income year 2014 – 2015 for that house were: Repair expenses Tk. 170,000; City Corporation tax Tk. 22,000; Insurance premium Tk. 16,000; Caretaker and Night guard salary Tk. 24,000; Land revenue paid Tk. 2,000; Mortgage interest paid Tk. 4,000; Interest paid to HBFC Tk. 6,000; Alteration cost for ground floor Tk. 30,000. One flat remains vacant for 2 months during the year.

Income from Agriculture, Business and Profession: Sale of Rice 250 maunds @ Tk. 600 per maund and Income from Rubber garden Tk. 60,000. Share of profit from Partnership firm Tk. 120,000 and Profit from sole proprietorship business Tk. 50,963.

During the year he incurred and made expenses and investments for: Life insurance premium paid: Own (policy value Tk. 500,000) Tk. 60,000 and Spouse (policy value Tk. 300,000) Tk. 25,000; Purchase of shares: Unlisted company Tk. 30,000 and listed company (IPO) Tk. 22,000; Donated to: Prime Minister's Relief Fund Tk. 15,000, Religious institution Tk. 10,000 and local club Tk. 8,000; Deposited to Pension Scheme per month Tk. 1,000 and Purchase of books Tk. 12,000.

Solution 18A – 16:

Mr. Arup Ahmed
Income Year: 2016 – 2017; Assessment Year: 2017 – 2018
Calculation of taxable income

	Tk.	Tk.	Tk.
1. Income from Salary (section: 21):			205,000
2. Income from Securities (section: 22 & 23):			
Interest from tax exempt government securities	8,000		
Less: exemption (full)	8,000	-	
Interest from taxable government securities			
(4,275 × 100 ÷ 95)	4,500		
(50,000 × 12%)	6,000		
Less: Admissible expenses –	10,500		
Bank charge (9,975 × 5%)	499	10,001	
Interest from debentures	9,100		
Less: Admissible expenses –			
Bank charge (8,645 × 5%)	432	8,668	18,669
3. Income from House Property (section: 24 & 25):			
Annual rental value (9,000 × 2 × 3 × 12)	648,000		

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Municipal value ($900,000 \times 3 \div 4$)	675,000		
Annual value (whichever is higher)		675,000	
Less: Admissible expenses –			
Repair and maintenance ($675,000 \times 25\%$)	168,750		
City corporation tax (3/4)	16,500		
Insurance premium (3/4)	12,000		
Land revenue (3/4)	1,500		
Mortgage interest (3/4)	3,000		
Interest paid to HBFC (3/4)	4,500		
Vacancy allowance ($675,000 \times 1 \div 6 \times 2/12$)	18,750	225,000	450,000
4. Income from Agriculture (section: 26 & 27):			
Income from rubber garden ($60,000 \times 60\%$)	36,000		
Sale of rice (250×600)	150,000	186,000	
Less: Admissible expenses –			
Production costs ($150,000 \times 60\%$)		90,000	96,000
5. Income from Business or Profession (sec:28–30):			
Income from sole proprietorship business		50,963	
Income from rubber garden ($60,000 \times 40\%$)		24,000	74,963
6. Share of Profit in a Partnership Firm:			120,000
Total			<u>964,632</u>

Calculation of Tax liability:				Calculation of Allowable investment	
		Rates	Tk.		Tk.
On first Tk.	250,000	0%	-	Life insurance premium:	
On next Tk.	400,000	10%	40,000	Own	50,000
On next Tk.	314,632	15%	47,195	Spouse	25,000
Total	<u>964,632</u>		87,195	Purchase of share	22,000
Less: tax rebate on income from partnership firm (note – 3)			10,848	Donation to relief fund	15,000
			76,347	Deposit pension scheme	12,000
Less: Investment tax credit			18,600	Actual investment	<u>124,000</u>
			57,747	Maximum limit:	
Less: Tax deducted at source			980	25% of 9,64,632	241,158
Tax liability			<u>56,767</u>	Or,	<u>15,00,000</u>
					Lower one
				Allowable investment	<u>124,000</u>

Notes: (1) A tax rebate on income from partnership firm is allowed at an average rate. Here the average rate is: $(\text{Total tax liability} \div \text{Total taxable income}) = 87,195 \div 964,632 = 9.04\%$. (2) The amount of TDS charged on less tax government securities, approved and unapproved commercial securities are readjusted to identify net tax liability of the assessee.

Illustration 18A – 17:

Mr. Arshad Amin is an executive of a private firm. He receives basic salary of Tk. 35,000 per month with: Medical allowance Tk. 3,000 per month; Dearness allowance 10% of basic salary; Entertainment allowance 5% of basic salary; House rent allowance Tk. 20,000 per month and Travel allowance Tk. 45,000. He also received two festival bonus (each equal to one month's basic salary) and performance bonus equal to four month's basic salary. The company provides him a

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full time car that he can use for his personal purposes. He received Tk. 16,500 as leave encashment during the year. He contributes 10% of basic salary to a recognized provident fund and his employer also contributes the same percentage to that fund. He also contributes 1% of basic salary to welfare fund and 2% of basic salary to Zakat fund. He received interest from the recognized provident fund Tk. 12,500.

Mr. Arshad is the owner of a two storied building that he let out at the following monthly rent: ground floor Tk. 8,000 and first floor Tk. 10,000. All this rent is inclusive of gas and water bill for which he also spent Tk. 22,000 in that year. He has received advance of Tk. 30,000. Other expenses relating to the house are – municipal tax Tk. 4,000; caretaker salary Tk. 2,000 per month; maintenance expense Tk. 60,000; fire insurance Tk. 3,000 per quarter and interest on mortgage loan Tk. 6,500.

Mr. Arshad operates a stationary shop from where he earns a profit of Tk. 140,000 during the year. He also received Tk. 22,000 from his electronics business. In the previous year he had loss from electronics business Tk. 40,000 that he carried forward this year. The tax authority identified a piece of land situated at Baridhara, Dhaka was registered in the name of Mr. Arshad Amin. That land was purchased at Tk. 2,000,000 which the authority believes was undervalued by 10%. During the year Mr. Amin received Tk. 22,500 as profit from Islami Bank. Calculate Mr. Arshad Amin's total taxable income and net tax liability for the assessment year 2017-18 considering his allowable investment for the year was Tk. 220,000.

Solution 18A – 17:

Mr. Arshad Amin			
Income Year: 2016 – 2017; Assessment Year: 2017 – 2018			
Calculation of taxable income			
		Tk.	Tk.
1. Income from Salary (section: 21):			
Basic salary (35,000 × 12)			420,000
Medical allowance (3,000 × 12)		36,000	
Less: lower of Tk. 120,000 or 10% of B.S.		42,000	-
Dearness allowance (420,000 × 10%)			42,000
Entertainment allowance (420,000 × 5%)			21,000
Festival bonus (35,000 × 2)			70,000
Performance bonus (35,000 × 4)			140,000
House rent allowance (20,000 × 12)		240,000	
Less: lower of: 50% of Basic salary	210,000		
Or, Tk. 25,000 per month	<u>300,000</u>	210,000	30,000
Travel allowance		45,000	
Less: exemption – actual expense		45,000	-
Conv. Facilities: Higher of Tk. 60,000 or 5% of BS			60,000
Leave encashment			16,500
Employer's contribution to RPF			42,000
Interest from RPF		12,500	
Less: lower of Interest @ 14.50%	12,500		
Or, 1/3 of basic salary	<u>140,000</u>	12,500	-
			841,500

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2. Income from House Property (section: 24 & 25):

Annual rental value $[(8,000 + 10,000) \times 12]$	216,000		
Less: tenants' expenses paid by the owner	22,000	194,000	
Advance received		30,000	
Less: Admissible expenses –		224,000	
Repair and maintenance $(194,000 \times 25\%)$	48,500		
Municipal tax	4,000		
Fire insurance premium $(3,000 \times 4)$	12,000		
Interest on mortgage loan	6,500	71,000	153,000

3. Income from Business or Profession (sec:28–30)

Income from stationary shop		140,000	
Income from electronic business	22,000		
Less: Previous year's loss	40,000		
	18,000		
Carry forward	18,000	-	140,000

4. Income from other sources (section: 33 & 34):

Unexplained income $(2,000,000 \times 10\%)$		200,000	
Profit from Islami Bank $(22,500 \times 100 \div 90)$		25,000	225,000
Total Income			<u>1,359,500</u>

Calculation of Tax liability:

On first Tk.	250,000	@ 0%	Tk.	-	Deductions:	
On next Tk.	400,000	@ 10%	40,000		Investment tax credit	
On next Tk.	500,000	@ 15%	75,000		(Tk. 220,000 \times 15%)	33,000
On next Tk.	209,500	@ 20%	41,900		Tax deducted at source	2,500
Total	<u>1,359,500</u>		<u>156,900</u>		Net tax liability	<u>121,400</u>

Notes: (1) Actual travel allowance is considered same as the amount received and so fully exempted. (2) As no rate against interest from RPF is given, it is assumed that the rate is 14.5%. (3) Previous year's loss can be set off against income generated in the current year but only against income from the same business. And so, unadjusted loss needs to be carried forward again. (4) Undisclosed assets will consider as income when the fact has been identified and so here it is consider as income under the head other sources by the undisclosed amount. (5) TDS is Tk. 2,500 on Profit from Islami Bank.

Illustration 18A – 18:

Followings are the details of income of Mr. Akhand for the year ended 30th June, 2017:

- Mr. Akhand is the Sales Manager of Navana Traders. He received basic salary (BS) of Tk. 33,500 per month; 10% of BS as medical allowance; 60% of BS as house rent allowance; Tk. 3,500 per month as conveyance allowance and 1% of sales as commission. Mr. Akhand is entitled to use the office car to conduct business affairs. The firm deduct 10% of BS as contribution to recognized provident fund; 2% of BS as contribution to old age fund and Tk. 1,000 per month as income tax. Mr. Akhand received Tk. 26,000 as interest from the recognized provident fund at an interest rate of 13%. The employer also contributes the same percentage to RPF as Mr. Akhand contributed. During the year Navana Traders sales revenue is Tk. 82 lacs. Based on such a good performance the firm declare performance bonus to all employees equal to 3 times of basic salary. Besides all employee received two festival bonuses each equal to half month's basic salary or Tk. 18,000 whichever is higher. TDS on salary is Tk. 12,000.

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2. During the year Mr. Akhand received interest from the following securities:

	Investment	Interest rate	Date of purchase
Tax exempt government securities	Tk. 200,000	13%	27.10.2015
Taxable government securities	150,000	12%	01.01.2016
Debentures	300,000	14%	16.09.2016

All the interests are collected by the bank and bank charge 2% collection fees. Investment in debentures is financed by 8% loan.

3. Mr. Akhand is the owner of a house at Baridhara, Dhaka, where he lives with his family.
4. Mr. Akhand received Tk. 70,000 from the sale of agri-products. He maintained all the records of expenses relating to agriculture. As per record he paid Tk. 40,000 cultivation expense including labor cost; Tk. 3,515 for local rates and taxes; Tk. 18,000 insurance premium and interest on loan Tk. 15,000.
5. Other than all the income listed above Mr. Akhand received Tk. 3,600 interest on post office deposit, Sale of fish from river Tk. 52,000 and Tk. 36,000 dividend from a public limited company.

During the year Mr. Akhand incurred investments in life insurance premium: Own (policy value Tk. 100,000) Tk. 9,000; Spouse (policy value Tk. 80,000) Tk. 8,500; Deposit Pension Scheme Tk. 6,000 per month; Purchase of a laptop Tk. 150,000; Donation to: Zakat fund Tk. 15,000; Ahsania Mission Cancer Hospital Tk. 25,000; Local madrasa Tk. 28,000; Bangladesh football federation Tk. 24,000; Purchase of motor car Tk. 650,000. Calculate taxable income & tax liability of Mr. Akhand.

Solution 18A – 18:

Mr. Akhand Income Year: 2016 – 2017; Assessment Year: 2017 – 2018 Calculation of taxable income

		Tk.	Tk.	Tk.
1. Income from Salary (section: 21):				
Basic salary (33,500 × 12)			402,000	
Medical allowance (402,000 × 10%)		40,200		
Less: Tk. 120,000 or 10% of B.S. lower one		40,200	-	
Festival bonus: Higher of (33,500 × 50% × 2)		33,500		
and (18,000 × 2)		36,000	36,000	
Performance bonus (33,500 × 3)			100,500	
House rent allowance (402,000 × 60%)		241,200		
Less: lower of 50% of Basic salary	201,000			
Or, Tk. 20,000 per month	240,000	201,000	40,200	
Conveyance allowance (3,500 × 12)		42,000		
Less: exemption (maximum Tk. 30,000)		30,000	12,000	
Sales commission (8,200,000 × 1%)			82,000	
Employer's contribution to RPF			40,200	
Interest from RPF		26,000		
Less: lower of Interest @ 14.50%	29,000			
Or, 1/3 of basic salary	134,000	29,000	-	
				712,900

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2. Income from Securities (section: 22 & 23):				
Interest from tax exempt government securities	26,000			
Less: exempted (full)	26,000			-
Interest from taxable government securities	18,000			
Less: Admissible expenses –				
Bank charge (17,100 × 2%)	342	17,658		
Interest from debentures				
(3,00,000 × 14% × 9.5 ÷ 12)	33,250			
Less: Admissible expenses –				
Bank charge (31,588 × 2%)	Tk. 632			
Interest on borrowed fund	19,000	19,632	13,618	31,276
3. Income from Agriculture (section: 26 & 27):				
Sale of agri-products		70,000		
Less: Admissible expenses –				
Production costs	40,000			
Local rates and taxes	3,515			
Insurance premium	18,000			
Interest on loan	15,000	76,515	(6,515)	
4. Income from other sources (section: 33 & 34):				
Dividend from company (36,000 × 100 ÷ 90)	40,000			
Less: Exempted- upto Tk. 25,000	25,000	15,000		
Interest from postal deposit (3,600 × 100 ÷ 90)		4,000		
Sale of fish from river		52,000	71,000	
Total income			8,08,661	

Calculation of Tax liability:				Calculation of Allowable investment	
		Rates	Tk.		Tk.
On first Tk.	250,000	0%	-	Contribution to old age fund	8,040
On next Tk.	400,000	10%	40,000	Life insurance premium	
On next Tk.	158,661	15%	23,799	Own	9,000
Total	808,661		63,799	Spouse	8,000
Less: Investment tax credit				Deposit Pension Scheme	60,000
(202,165 × 15%)			30,325	Laptop purchase	100,000
			33,474	Contribution to RPF	80,400
Less: TDS/Advance Income Tax			18,962	Donation to zakat fund	15,000
Tax liability			14,512	Ahsania hospital	25,000
				Actual investment	305,440

Notes: (1) Maximum limit of allowable investment is lower of 25% of Tk. 808,661 i.e., 202,165 or Tk. 15,000,000. Here, actual allowable investment is more than the limit, so tax credit will be on Tk. 202,165. (2) Mr. Akhand is entitled to use car for office purposes only, so it is not considered as his income which ensures exemption upto maximum limited against conveyance allowance. (3) Mr. Akhand uses his house for personal purposes and so no income on the house need to identify. (4) Contribution to RPF both by employee and employer is allowable investment [(10% of 402,000)×2]. (5) Total TDS from income generated by Mr. Akhand was Tk. 18,200 (Tk. 12,000 against income from salary + Tk. 900 against income from taxable government securities + Tk. 1,662 from debentures + Tk. 4,000 against divided income + Tk. 400 against interest on postal deposit which needs to be adjusted to identify net tax liability.

Illustration 18A – 19:

Mr. Khan is an assistant professor of a private university from where he receives basic salary following the salary structure of 35,000 – 3,500 X 4 – 49,000. In the month of January 2016 he received basic salary of Tk. 38,500 and his annual salary increment date is on 16th November. Other than basic salary he receives 40% of basic salary as house rent allowance and Tk. 2,000 per month as medical allowance. During the year he received two festival bonuses each equal to one month's basic salary (one received in October and other in December); Tk. 5,000 per month as deputy director of career counseling center of the university. He contributes 12% of basic salary to a recognized provident fund and his employer also contributes 10% of basic salary to that fund. From the fund he received Tk. 13,500 interest at an interest rate of 15% per annum. During the year he attended to another university as guest lecturer and received honorarium of Tk. 25,000.

Mr. Khan is also the owner of a house that he let out to a private computer firm at a monthly rent of Tk. 40,000. According to the deed the computer firm will bear any regular types of repair and maintenance expenses and in the year 2015 – 2016 the amount of repair and maintenance expense paid by the firm was Tk. 50,000. Mr. Khan paid Tk. 120,000 as repair expense; Tk. 4,000 as municipal tax; loan to HBFC Tk. 88,500 (of which principal is Tk. 82,000) and Tk. 5,000 as land revenue. The house remains vacant for one and half months during the year.

Mr. Khan's income from sole proprietorship business is Tk. 265,300 in the income year 2016 – 2017. Mr. Khan is also a partner of a partnership firm and earned an income of Tk. 300,000 as profit from the firm. He purchased a land in January 2010 at a total cost of Tk. 900,000 and constructed a building over the land at a total cost of Tk. 1,600,000 that was solely used for the sole proprietorship business. The current fair market value of the land is Tk. 7,900,000. In July 2016, he entered into an agreement with Fortune Properties Ltd and as per the agreement he would get 6 flats out of 20 flats that the developer would construct. The details of the flat are as follows:

Size of the flats	Units	Rate per sft.	Total Value
1600 square feet	2	Tk. 1,200	1,920,000
1450 square feet	2	Tk. 1,200	1,740,000
1200 square feet	2	Tk. 1,200	1,440,000
Total	6		5,100,000

Mr. Khan states the following other sources of income for the income year 2016 – 2017: Honorarium received as examiner Tk. 13,000; Royalty as a writer from a publisher Tk. 21,000; Interest on savings account Tk. 5,040; Interest on post office savings account Tk. 4,500; Honorarium as column writer in a daily newspaper Tk. 20,000; Dividend from a public limited company Tk. 27,000; Dividend from mutual fund Tk. 27,000. He has a fixed deposit of Tk. 500,000 in a scheduled bank from where he receives 12.50% interest annually.

Mr. Khan made and incurred the following investment and expenses during the said year: Life insurance premium Tk. 150,000 (policy value Tk. 1,250,000); Purchase of 5 year Bangladesh Savings Certificate Tk. 140,000; Purchase of Share from Primary market Tk. 25,000; Purchase of Share of an unlisted company Tk. 80,000; Donation to Educational and Religious institutions Tk. 80,000; donation to government zakat fund Tk. 30,000; donation to a local club Tk. 15,000; Spent a sum of Tk. 215,000 as educational expenses of his children; Purchase of ICB certificate Tk. 40,000; Two deposit pension scheme each Tk. 2,500 per month.

Based on the above information calculate Mr. Khan's taxable income and tax liability for the assessment year 2017 – 2018.

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Solution – 18A – 19:

Mr. Khan

Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

Calculation of taxable income

	Tk.	Tk.	Tk.
1. Income from Salary (section: 21):			
Basic salary (note – 1)		488,250	
House rent allowance ($488,250 \times 40\%$)	195,300		
Less: exempted (note – 2)	244,125	-	
Medical allowance ($2,000 \times 12$)	24,000		
Less: lower of Tk. 120,000 or 10% of B.S.	48,825	-	
Festival bonus ($38,500 + 42,000$)		80,500	
Honorarium as deputy director of CCC		60,000	
Employer's contribution to RPF ($488,250 \times 10\%$)		48,825	
Interest from RPF	13,500		
Less: exemption (note -- 3)	13,050	450	678,025
2. Income from House Property (section: 24 & 25):			
Annual rental value ($40,000 \times 12$)	480,000		
Add: owner's expenses paid by the tenant	50,000	530,000	
Less: Admissible expenses –			
Repair and maintenance ($530,000 \times 30\%$)	159,000		
Municipal tax	4,000		
Land revenue	5,000		
Interest on HBFC loan	6,500		
Vacancy allowance ($530,000 \times 1.50 \div 12$)	66,250	240,750	289,250
3. Income from Business or Profession (sec:28-30):			
Income from sole proprietorship business			265,300
4. Share of profit in a Partnership Firm:			
Income from partnership firm			300,000
5. Income from Capital Gain (section: 31 – 32):			
Fair market value of the assets	7,900,000		
Less: cost of acquisition and development	2,500,000		
Capital gain		5,400,000	
Less: Reinvested Gain to claim rollover relief		5,100,000	300,000
6. Income from other sources (section: 33 & 34):			
Honorarium as guest lecturer		25,000	
Honorarium as examiner		13,000	
Royalty as a writer		21,000	
Interest on savings account ($5,040 \times 100 \div 90$)		5,600	
Int. on post office savings account (gross)		5,000	
Honorarium as column writer		20,000	
Dividend from limited company (gross)	30,000		
Less: Exempted – up to Tk. 25,000	25,000	5,000	
Dividend from mutual fund ($27,000 \times 100 \div 90$)	30,000		
Less: Exempted: up to Tk. 25,000	25,000	5,000	
Interest from fixed deposit ($500,000 \times 12.50\%$)		62,500	162,100
Total income			1,994,675

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Calculation of Tax liability:				Calculation of Allowable investment	
		Rates	Tk.		Tk.
On first Tk.	250,000	0%	-	Life insurance premium	125,000
On next Tk.	400,000	10%	40,000	Savings certificate	140,000
On next Tk.	500,000	15%	75,000	Primary share	25,000
On next Tk.	600,000	20%	120,000	Contribution to RPF (note – 5)	107,415
On rest	244,675	25%	61,169	Donation to Zakat fund	30,000
Total	<u>1,994,675</u>		296,169	Deposit pension scheme	60,000
Less: tax rebate on partnership profit			44,550	Purchase of ICB certificate	40,000
(note – 6)			251,619	Actual investment	<u>527,415</u>
Less: Investment tax credit			67,340	Maximum limit: (lower of)	
			184,279	25% of 1,994,675	498,669
Less: TDS (note – 7)			13,310	Or,	<u>15,000,000</u>
Tax liability			<u>170,969</u>	Allowable investment	<u>498,669</u>

Notes: (1) Mr. Khan's basic salary for the year: July '16 to October '16 – salary @ 38,500 per month; November '16 – (38,500 × 15/30) + (42,000 × 15/30) and December '16 to June '17 – salary @ 42,000 per month. (2) House rent allowance is exempted by lower of: 50% of Basic salary i.e., Tk. 244,125 or Tk. 25,000 per month i.e., Tk. 300,000. (3) Interest from RPF is exempted by lower of interest @ 14.50% [interest @ 15% is Tk. 13,500 and so, interest @ 14.50% is Tk. 13,050 (13,500 ÷ 0.15 × 0.145)] or 1/3 of basic salary [Tk. 162,750]. (4) As Mr. Khan receives no cash rather gets flats, the gain is reinvested and that is why he is eligible to get rollover relief provided that he elects such in writing to DCT before the assessment. Thus, tax value of the flats will be nil and his capital gains will be assessed to the extent of taka 300,000 for tax purposes. (5) Employee's contribution to RPF is 12% of basic salary. Therefore, employee and employer's contribution to RPF is Tk. 107,415 (488,250 × 12% + 488,250 × 10%). (6) A tax rebate on income from partnership firm is allowed at an average rate. Here the average tax rate of tax is = (total tax liability ÷ total taxable income) = 296,169 ÷ 1,994,675 = 14.85%. (8) Tax rebate on investment allowance [(250,000×15%) + (248,669×12%)] = Tk. 67,340 (7) TDS of Tk. 3,000 against dividend received from the limited company, Tk. 3,000 dividend from mutual fund, Tk. 560 against interest on saving account, Tk. 500 against int. on post office savings and Tk. 6,250 against fixed deposit was deducted which is adjusted to identify net tax liability.

Illustration 18A – 20:

Mr. Topu has been working in a private firm under the pay scale of 15,000 – 2,000 × 5 – 25,000 – 2,500 × 5 – 35,000 plus one initial increment which results a monthly salary of Tk. 32,500 in the month of June, 2017. The date of annual increment was 16th September. He is also entitled to a house rent allowance @ 40% of basic salary; entertainment allowance Tk. 2,500 per month; profit bonus @ 1% of net profit of the firm; two festival bonus each equal to a month's basic pay (one received after increment), leave encashment of Tk. 9,593 and a full time car. Mr. Topu contributed 10% of basic salary to RPF and his employer also contributes the same percentage in that fund. He received Tk. 130,000 as interest @ 14% from the RPF during the year. From his salary Tk. 3,000 has been deducted as advance income tax per month. During the year net profit of that firm was Tk. 8,800,000. Mr. Topu is the owner of a two storied building at Lalmatia, Dhaka and he let out the whole building at a monthly rent of Tk. 30,000. Besides all other maintenance expense he paid municipal tax of Tk. 2,500 per quarter for that house. Mr. Topu took a loan of Tk. 2,000,000 @ 10% from a bank by placing that house as collateral to meet the construction cost. During the year he paid the installment of the loan Tk. 300,000 (including principal and interest). During the year Mr. Topu visited South Korea as a consultant and generated Tk. 500,000 and he paid income tax @ 25% in South Korea as per DTA. Half of this income has been brought through banking channel. From another visit to Russia he

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generated Tk. 300,000 and paid income tax @ 20%. Mr. Topu has received Tk. 45,000 as interest from the savings account of his minor child and he has purchased a shop in the name of his wife from which his wife has received Tk. 50,000 as rent. In the income year 16–17, Mr. Topu's net assets valued at Tk. 2.5 crore. Ascertain total taxable income and tax liability for Mr. Topu for the assessment year 2017 – 2018. Consider allowable investment for the year is Tk. 300,000 and his wife did not submit any return in her name.

Solution 18A – 20:

Mr. Topu			
Income Year: 2016 – 2017; Assessment Year: 2017 – 2018			
Calculation of taxable income			
	<u>Tk.</u>	<u>Tk.</u>	<u>Tk.</u>
1. Income from Salary (section: 21):			
Basic salary (note – 1)		383,750	
House rent allowance (383,750 × 40%)	153,500		
Less: exemption (lower of 300,000 or 50% of BS)	<u>191,875</u>		
		-	
Entertainment allowance (2,500 × 12)		30,000	
Profit bonus (8,800,000 × 1%)		88,000	
Festival bonus (30,000 + 32,500)		62,500	
Conv. Facilities: higher of 60,000 or 5% of BS		60,000	
Leave encashment		9,593	
Employer's contribution to RPF (383,750 × 10%)		38,375	
Interest from RPF	130,000		
Less: lower of Interest @ 14.50%	134,643		
Or, 1/3 of basic salary	<u>127,916</u>	<u>2,084</u>	
			674,302
2. Income from House Property (section: 24 & 25):			
Annual rental value (30,000 × 12)		360,000	
Less: Admissible expenses –			
Repair and maintenance (note – 2)	90,000		
Municipal tax (2,500 × 4)	10,000		
Interest on mortgage loan	<u>200,000</u>	<u>300,300</u>	
			60,000
3. Income from Spouse or Minor Child:			
Rental income of spouse		50,000	
Int. from savings account of minor (45,000 × 10 ÷ 9)		<u>50,000</u>	
			100,000
4. Foreign Income:			
Income from South Korea -			
Income brought through banking channel	250,000		
Less: exemption	<u>250,000</u>	-	
Income didn't brought through banking channel		250,000	
Income from Russia		<u>300,000</u>	
			550,000
Total tax payable income			<u>1,384,302</u>

Calculation of Tax liability

	Tk.		
On first Tk. 250,000 @ 0%	-	Less: double taxation relief (note – 4)	64,295
On next Tk. 400,000 @ 10%	40,000	Less: Investment tax credit	43,500
On next Tk. 500,000 @ 15%	75,000	Less: TDS (note – 6)	41,000
On next Tk. 234,302 @ 20%	46,860	Tax liability to be paid	13,065
		Add: 10% surcharge for wealth (54,065 × 10%)	5,407
Gross Tax	161,860	Net tax liability	<u>7,658</u>

Notes: (1) Mr. Topu's basic salary for the year: July '16 to August '16 – salary @ 30,000 per month, September '16 – (30,000 × 15 ÷ 30) + (32,500 × 15 ÷ 30) and October '16 to June '17 – salary @ 32,500 per month. (2) Assuming that the house property was let out for residential purpose and so 25% of annual value is admissible as repair and maintenance expense. (3) Double taxation relief: Average tax rate in Bangladesh is (161,960 ÷ 1,384,302) i.e. 11.69%. So, Tax relief – on income from South Korea (as per DTA) 25% of 250,000 = Tk. 62,500 but Maximum relief for DTA country is at an average rate of the country (250,000 × 11.69%) = Tk. 29,225. On income from Russia (no DTA exists): 20% or average whichever is lower i.e. 11.69% of 300,000 = Tk. 35,070; Total double taxation relief = (29,225 + 35,070) = Tk. 64,295. (4) No question of double taxation exists for half of income generated from South Korea because that part was exempted from tax in Bangladesh because of using banking channel to bring the money. (5) Total TDS was Tk. 41,000 (Tk. 36,000 from salary + Tk. 5,000 from interest on saving account) need to be adjusted to calculate net tax liability. (6) He states current year's net asset at Tk. 2.5 crore. So he has to pay 10% surcharge on tax payable amount.

Illustration 18A – 21:

Ms. Afroza Rahman is the chief accountant of a private limited company. Her sources of income for the year ended 30th June, 2017 were: Basic salary Tk. 25,000 per month; Medical allowance Tk. 2,500 per month; Conveyance allowance Tk. 3,625 per month; Mobile bill allowance Tk. 3,000 per month; Dearness allowance 5% of basic salary; Two festival bonus - each equal to one month's basic salary. Ms. Rahman has been provided with a house for which the company pays a monthly rent of Tk. 15,000. With the house the company provides her a servant for whom company pays a monthly salary of Tk. 2,500. She also enjoys the benefit of a full time car for which the company paid maintenance expense of Tk. 20,000 during the year. She uses the car both for personal and office purposes. She contributed 10% of basic salary to a recognized provident fund and her employer also contributed the same amount. She received interest @ 14.5% from the same fund Tk. 7,250 during the year. She also contributed five days basic salary to a private sector relief fund. The company deducted Tk. 2,000 each month from her salary as income tax.

Ms. Rahman is the owner of a sole proprietorship business from where she earned net profit of Tk. 595,000 during the year ended 30th June 2017. This net profit figure is after deduction of salary paid to Miss Rahman Tk. 96,000; research and development expense Tk. 37,000; fund embezzlement occurred during office hour Tk. 2,500 and depreciation Tk. 45,000. For tax purpose depreciation is allowable Tk. 37,000. She sold 3-storied building for Tk. 2,100,000 in December 2016, which was purchased on March 2007 for Tk. 1,500,000. In January 2011, the building was extended at a total cost of Tk. 100,000. The fair value of the building in December 2016 was Tk. 2,300,000.

Ms. Rahman sold 200 mounds of rice @ Tk. 585 per mound and rabi crops Tk. 35,000 that was grown in her cultivable land. She kept records of all expenses with proper books of accounts. According to her statement expenses relating to cultivation and others are: labor charge Tk. 30,000; cost of seeds and fertilizer Tk. 25,000; union parishad tax Tk. 3,250; crop insurance premium Tk. 2,000 per quarter; depreciation cost Tk. 16,000. Ms. Rahman charge depreciation at a flat rate of 15% on the assets used

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for agricultural purposes which are: tractor worth Tk. 50,000, Power pumping machine worth Tk. 15,000, Weighing machine worth Tk. 15,000 and Cost of Kutchha irrigation channel Tk. 10,000. Ms. Rahman also generated income from tea garden Tk. 80,000; Sale of share Tk. 20,000 (cost price Tk. 12,000); sale of palm juice Tk. 5,000, sale of pond fish Tk. 8,000 and interest on post office savings bank Tk. 18,000.

Consider the following investments for the year, calculate her tax liability:

Insurance premium Tk. 80,000 (Policy value Tk. 1,000,000); Deposited to pension scheme per month Tk. 2,000; Educational expense of son Tk. 44,000; Donated to recognized fund Tk. 115,000; Purchase of family savings certificate Tk. 80,000; Purchase of Tax exempt government securities Tk. 112,000 and Purchased share of an unlisted company Tk. 25,000.

Solution 18A – 21:

Ms. Afroza Rahman

Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

Calculation of tax able income

	Tk.	Tk.	Tk.
1. Income from Salary (section: 21):			
Basic salary (25,000 × 12)		300,000	
Medical allowance (2,500 × 12)	30,000		
Less: lower of Tk. 120,000 or 10% of B.S.	30,000	-	
Festival bonus (25,000 × 2)		50,000	
Mobile bill allowance (3,000 × 12)		36,000	
Dearness allowance (300,000 × 5%)		15,000	
Accommodation facilities (note – 6)		75,000	
Servant allowance (2,500 × 12)		30,000	
Conveyance allowance (3,625 × 12)		43,500	
Conv. Facilities: higher of 60,000 or (300,000 × 5%)		60,000	
Employer's contribution to RPF		30,000	
Interest from RPF	7,250		
Less: exempted (note – 7)	7,250	-	639,500
2. Income from Agriculture (section: 26 & 27):			
Sale of rice (200 × 585)	117,000		
Sale of rabi crops	35,000		
Income from tea garden (80,000 × 60%)	48,000		
Income from sale of palm juice	5,000	205,000	
Less: Admissible expenses – Labor charge	30,000		
Seeds and fertilizer	25,000		
Union parishad tax	3,250		
Crop insurance premium (2,000 × 4)	8,000		
Depreciation (note – 1)	14,000	80,250	124,750
3. Income from Business or Profession (sec:28–30):			
Income from sole proprietorship business		595,000	
Add: Inadmissible expenses –			
Salary paid to owner	96,000		
Depreciation (to be treated later on)	45,000	141,000	
		736,000	

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Less: Depreciation (as per ITO)	37,000	
	699,000	
Income from tea garden (80,000 × 40%)	32,000	731,000
4. Income from Capital Gain (section: 31 – 32):		
Sale of Share (20,000 – 12,000)	8,000	
Less: exemption (full)	8,000	-
Sale of building (note – 2)	700,000	700,000
5. Income from other sources (section: 33 & 34):		
Sale of fish	8,000	
Interest on post office (18,000 × 100 ÷ 95)	20,000	28,000
Total taxable income		<u>2,223,250</u>

Calculation of Tax liability:				Calculation of Allowable investment	
		Rates	Tk.		Tk.
On first Tk.	300,000	0%	-	Life insurance premium	80,000
On next Tk.	400,000	10%	40,000	Contribution to RPF	60,000
On next Tk.	500,000	15%	75,000	Family savings certificate	80,000
On next Tk.	323,250	20%	64,650	Tax-exempt gov. securities	112,000
On. capital gain	700,000	15%	105,000	Donation to recognized fund	115,000
Total Tk.	<u>2,223,250</u>		284,650	Deposit pension scheme	24,000
Less: Investment tax credit			64,020	Actual investment	<u>471,000</u>
			220,630	Maximum limit: Lower of –	
Less: Tax deducted at source			26,000	25% of 2,223,250	555,813
Tax liability			<u>194,630</u>	Or,	<u>15,000,000</u>
				Allowable investment	<u>471,000</u>

Notes: (1) Calculation of depreciation following 3rd schedule of the ITO, 1984: Kutcha irrigation channel @20%, Tractor @ 15%, Power pumping machine @ 20% and Weighing machine @ 10% on the value of the asset. (2) Contribution to a private sector relief fund is not an allowable investment. (3) Advance payment of tax in the form of TDS need to be adjusted to calculate net tax liability. (4) Calculation of capital gain arising from sale of building: Sale proceeds or fair market value whichever is higher [Tk. 2,300,000] less: cost of acquisition [Tk. 1,500,000] and cost of extension [Tk. 100,000]. Therefore capital gain is Tk. 700,000. (5) As the capital gain arises after five years from acquisition, tax on capital gain is calculated separately using the rate lower between 15% and average rate. Here, average rate is calculated on total income inclusive of the said capital gain. (6) Accommodation facility is a taxable income quantified as lower of 25% of basic salary i.e., (300,000 × 25%) and Rental value (15,000 × 12) of the facility. (7) Interest on RPF is exempted by lower of Interest @ 14.50% = 7,250 or 1/3 of basic salary. (8) Average rate = total tax liability ÷ total taxable income. Here, under regular rates, tax on total taxable income is Tk. 340,813 and so, the average rate is 15.33% [340,813 ÷ 2,223,250]. (8) Tax rebate on investment allowance [(250,000 × 15%) + (221,000 × 12%)] = Tk. 64,020

Illustration 18A – 22:

Mr. Masud Reza works as an officer in a Multinational Company. His sources of income for the year ended on 30th June, 2017 are given below to calculate his tax liability for the year:

Income from Salary: Basic Salary Tk. 15,000 per month; Dearness allowance 10% of the basic salary; Two bonuses equivalent to two months basic salary; Medical allowance taka 1,000 per month; Entertainment allowance Tk. 200 per month; He has been provided with a free car both for official and personal use; He has also been provided with a rent free unfurnished quarter municipal value of which is Tk. 80,000; Travel allowance as a part of his contract Tk. 100,000 where

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he saved Tk. 16,500; He contributes 10% of his basic salary to a Recognized Provident Fund; During the year, his interest on the said provident fund @ 18% was Tk. 1,800; He has taken one month's basic salary as advance in the month of June to meet up some of his financial difficulties.

Interest on Securities and House Properties: Interest on tax-exempt government securities Tk. 3,000; Interest on taxable government securities Tk. 2,850; Interest on debentures Tk. 25,935. He has borrowed Tk. 20,000 @ 10% interest to purchase it. Bank has charged Tk. 400 as bank charge to collect the interest on debentures. He owns a two-storied house in Dhanmondi. He stays in one floor with his family and another floor is let out for residential purpose at a rate of Tk. 9,000 per month. The municipal value of the house is Tk. 200,000 per annum. During the year he spent expenses for: Repair Tk. 30,000; Insurance expense Tk. 4,000; Land development tax Tk. 1,500; Sewerage and utilities expense Tk. 1,000; Payment of DBH Loan installment (including interest of Tk. 500) Tk. 5,000; during the year, the house has remained vacant for two months.

Other Sources of income: Interest from fixed deposit account Tk. 4,500; profit from Islami bank Tk. 900; dividend from ICB Mutual Fund Tk. 31,500 and from a public limited company Tk. 1,800; sale of forest timber Tk. 4,000; sale of crops Tk. 5,000; income from borga Tk. 2,000; share of profit in a partnership firm Tk. 10,000 and profit from sole-tradership business Tk. 4,000 (last year's loss carried forwarded Tk. 1,000). He also reported income of spouse and minor child Tk. 40,000.

Investment claimed by Mr. Reza: Payment of life insurance premium Tk. 8,000 (Policy value Tk. 100,000); Purchase of a listed company's primary share Tk. 5,000, books and magazines Tk. 1,000 & share of co-operative society Tk. 2,000; Contribution to President's Relief Fund Tk. 3,000; Contribution to Govt. Zakat Fund Tk. 2,500; and Purchase of Furniture Tk. 15,000.

Solution 18A – 22:

Mr. Masud Reza

Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

Calculation of taxable income

	Tk.	Tk.	Tk.
1. Income from Salary (Section: 21):			
Basic salary (15,000 × 12)		180,000	
Dearness allowance (180,000 × 10%)		18,000	
Bonus (15,000 × 2)		30,000	
Medical allowance (1,000 × 12)	12,000		
Less: lower of Tk. 120,000 or 10% of B.S.	18,000	-	
Entertainment allowance (200 × 12)		2,400	
Conv. Facility: higher of 60,000 or (180,000 × 5%)		60,000	
Rent free accommodation: lower of:			
25% of basic salary	45,000		
Or, Rental value	80,000	45,000	
Travel allowance	100,000		
Less: Exempted – actual expense	83,500	16,500	
Employer's contribution to RPF (180,000 × 10%)		18,000	
Interest on RPF @ 18%	1,800		
Less: Exempted – interest @ 14.5% (1,800 ÷ 18 × 14.5) = 1,450 or 1/3 rd of B.S. i.e. 60,000; lower	1,450	350	
Advance salary		15,000	385,250

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2. Income from Securities (Section – 22):			
Interest on tax exempt government securities	3,000		
Less: Exempted - Full	<u>3,000</u>		
		-	
Interest on taxable gov. securities ($2,850 \times 100 \div 95$)		3,000	
Interest on debentures ($25,935 \times 100 \div 95$)	27,300		
Less: Allowable expenses: Bank Charge	(400)		
Interest on loan	<u>(2,000)</u>		
		<u>24,900</u>	
			27,900
3. Income from House Property (Section: 24 & 25):			
Actual rental value ($9,000 \times 12$)	108,000		
Municipal value ($200,000 \div 2$)	<u>100,000</u>		
Annual value (whichever is higher)		108,000	
Less: Admissible expenses –			
Repair and maintenance ($25\% \times 108,000$)	27,000		
Insurance ($4,000 \div 2$)	2,000		
Land development tax ($1,500 \div 2$)	750		
Interest on loan ($500 \div 2$)	250		
Vacancy allowance ($108,000 \times 2 \div 12$)	<u>18,000</u>		
		<u>48,000</u>	
			60,000
4. Agricultural Income (Section: 26 & 27):			
Sale of crops	5,000		
Income from borga	<u>2,000</u>		
		7,000	
Less: Allow expenses: Production cost (60%)		<u>3,000</u>	
			4,000
5. Income from Bus and Profession (Section: 28)			
Profit from sole-tradership business		4,000	
Less: Set off of losses		<u>1,000</u>	
			3,000
6. Share of profit in a partnership firm			
			10,000
7. Income of spouse or minor child			
			40,000
8. Income from other sources (Section: 33 & 34):			
Interest from fixed deposit ($4,500 \times 100 \div 90$)		5,000	
Profit from Islami Bank ($900 \times 100 \div 90$)		1,000	
Dividend from ICB M. Fund ($31,500 \times 100 \div 90$)	35,000		
Less: Exempted – up to Tk. 25,000	<u>25,000</u>		
		10,000	
Dividend of Public Ltd. Co. ($1,800 \times 100 \div 90$)	2,000		
Less: Exempted – up to Tk. 25,000	<u>25,000</u>		
		-	
Sale of forest timber		<u>4,000</u>	
			20,000
Total			<u>550,150</u>

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Calculation of Tax liability:				Calculation of Allowable investment	
		Rates	Tk.		Tk.
On first Tk.	250,000	0%	~	Life insurance premium	8,000
On next Tk.	300,150	10%	30,015	Share purchase	5,000
Total	<u>550,150</u>		30,015	Contribu. to :Relief fund	3,000
Less: Investment tax credit				:zakat fund	2,500
(54,500 × 15%)			(8,175)	Employer's & employee's	
Less: Tax credit for profit on			21,840	contribution to RPF	36,000
partnership firm (10,000 × 5.46%)			(546)	Actual investment	<u>54,500</u>
			21,294	Maximum limit: lower of	
Less: Tax deducted at source			5,815	25% of 550,150	137,538
Tax liability			<u>15,479</u>	Or,	15,000,000
				Allowable investment	<u>54,500</u>

Notes: (1) TDS includes Tk. 150 on interest on taxable government securities, Tk. 1,365 on debentures, Tk. 500 on fixed deposit, Tk. 100 on profit from Islami Bank, Tk. 3,500 on dividend from ICB mutual fund and Tk. 200 on dividend of public limited company. (2) Both employee's and employer's contribution to RPF is an investment allowance. (3) Though nothing is mentioned about the expenses related to agricultural income, we can at least assume 60% of sales proceeds as production cost related to this head of income. But this 60% should be charged only based on sales proceeds of crops only, as no production cost is associated and admissible for any income from barga. (4) Purchase of books, shares of co-operative society and furniture are not allowable investments. (5) Average rate of tax = $(30,015 \div 550,150) \times 100 = 5.46\%$.

Illustration 18A – 24:

Mr. Azam Reza works as an executive in GMG Airlines. He has the following sources of income for the year ended on 30th June, 2017.

- Income from Salary:** Basic Salary Tk. 12,000 per month; dearness allowance 20% of the basic salary; two festival bonuses and one performance bonus each equivalent to one month's basic salary; medical allowance Tk. 1,000 per month; conveyance allowance Tk. 2,000 per month; He has been provided with a car both for official and personal use; He has been provided with free tickets of plane the market value of which is Tk. 10,000 during the year for official tour. He has also been provided with a furnished house for which he pays 20% of his basic salary. It's annual rental value is Tk. 60,000; He contributes 10% of his basic salary to a Recognized Provident Fund. His employer also contributes the same amount; during the year his interest on the said provident fund @ 13% was Tk. 1,300; He has also received Tk. 27,600 as arrear salary of last year for which no tax has been charged earlier.
- Interest on Securities:** Value of 10% tax exempt govt. securities Tk. 30,000; Interest on taxable government securities Tk. 6,650; Interest on debentures Tk. 14,250 and Interest on Zero Coupon Bond Tk. 3,000.
- Income from House Properties:** He owns two houses in Mirpur. He uses one of the houses as his residence and another one has been let out for commercial purpose at a rate of Tk. 12,000 per month. The municipal values of both the houses are Tk. 100,000 and Tk. 120,000 per annum respectively. During the year, he has spent Tk. 15,000 for the house he uses as residence and the expenses for the let out house includes, repairs Tk. 46,000; legal charges Tk. 4,000; municipal tax Tk. 1,500; land revenue Tk. 1,000; salary of the caretaker Tk. 10,000. During the year, the house remained vacant during June, 2017.
- Agricultural income:** Sale of crops Tk. 15,000; income from lease of agricultural land Tk. 12,000; income from tea garden Tk. 10,000; and income from rubber garden Tk. 12,000

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5. **Capital gain:** He has sold a car used in his business for Tk. 150,000. The cost of the car was Tk. 100,000 and accumulated depreciation Tk. 80,000.
6. **Income from other sources:** Interest income from savings bank account Tk. 1,800; interest on post office savings bank account Tk. 810; dividend from a public limited company Tk. 1,800; sale of fish from pond Tk. 4,000; royalty from writing an Income Tax related book Tk. 10,000; honorarium as a guest lecturer Tk. 25,000; and interest on Deposit Pension Scheme Tk. 2,000.

Investment claimed by Mr. Reza: Payment of his own life insurance premium Tk. 12,000 (Policy value Tk. 100,000); payment of his wife's life insurance premium Tk. 8,000 (Policy value Tk. 100,000); purchase of a unlisted company's share Tk. 5,000; purchase of books and magazines Tk. 1,000; purchase of a share of co-operative society Tk. 2,000; contribution to NTV Relief Fund Tk. 3,000; contribution to one of his poor relative as Zakat Tk. 2,500; purchase of diamond jewellery for wife Tk. 300,000; purchase of Five year Bangladesh Savings Certificate Tk. 20,000; contribution to Lab Aid Hospital Tk. 50,000; and donation to a political party Tk. 250,000. Based on the above information, calculate taxable income and tax liability for the assessment year 2017 – 2018.

Solution 18A – 23:

Mr. Azam Reza Income Year: 2016 – 2017; Assessment Year: 2017 – 2018 Calculation of taxable income			
	Tk.	Tk.	Tk.
1. Income from Salary (Section: 21):			
Basic salary (12,000 × 12)		144,000	
Dearness allowance (144,000 × 20%)		28,800	
Bonus (12,000 × 3)		36,000	
Medical allowance (1,000 × 12)	12,000		
Less: lower of Tk. 120,000 or 10% of B.S.	14,400	-	
Conveyance allowance (2,000 × 12)		24,000	
Conv. Facility: Higher of 60,000 or (144,000 × 5%)		60,000	
Accommodation at concession rate:			
Lower of 25% of basic salary	36,000		
Or, Rental value	60,000	36,000	
Less: Rent paid by the assessee (144,000 × 20%)	28,800	7,200	
Employer's contribution to RPF (144,000 × 10%)		14,400	
Interest on RPF @ 13%	1,300		
Less: Exempted	1,450	-	
Arrear salary		27,600	342,000
2. Income from Securities (Section – 22):			
Interest on tax exempt government securities	3,000		
Less: Exempted - Full	3,000	-	
Interest on taxable government securities (gross)		7,000	
Interest on debentures (gross)		15,000	
Interest on zero coupon bond	3,000		
Less: Exempted - full	3,000	-	22,000
3. Income from House Property (Section: 24 & 25):			
Actual rental value (12,000 × 12)	144,000		
Municipal value	120,000		

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Annual value (whichever is higher)		144,000	
Less: Admissible expenses ~			
Repair and maintenance (30% × 144,000)	43,200		
Municipal tax	1,500		
Land revenue	1,000		
Vacancy allowance (1,44,000 × 1/12)	12,000	57,700	86,300
4. Agricultural Income (Section: 26 & 27):			
Sale of crops	15,000		
Income from lease of agricultural land	12,000		
Income from tea garden (10,000 × 60%)	6,000		
Income from rubber garden (12,000 × 60%)	7,200	40,200	
Less: Allowable expenses:			
Production cost (15,000 × 60%)		9,000	31,200
5. Income from Business and Profession (Sec: 28):			
Income from tea garden (10,000 × 40%)		4,000	
Income from rubber garden (12,000 × 40%)		4,800	
Revenue gain on sale of Motor car		80,000	88,800
6. Capital gain			50,000
7. Income from other sources (Section: 33 & 34):			
Interest from savings acc. (1,800×100÷90)		2,000	
Interest on post office savings Bank (gross)		900	
Dividend from Public Ltd. Co. (1,800×100÷90)	2,000		
Less: Exempted – up to Tk. 25,000	25,000	-	
Sale of fish from pond		4,000	
Royalty		10,000	
Honorarium as a guest lecturer		25,000	
Interest on DPS	2,000		
Less: Exempted - full	2,000	-	41,900
Total			<u>662,200</u>

Calculation of Tax liability:				Calculation of Allowable investment	
		Rates	Tk.		Tk.
On first Tk.	250,000	0%	-	Life ins. premium - own	Tk. 10,000
On next Tk.	400,000	10%	40,000	Life ins. premium - wife	8,000
On next Tk.	12,200	15%	1,830	Purchase of savings certificate	20,000
Total	<u>662,200</u>		41,830	contribution to RPF (14,400X2)	28,800
Less: Investment tax credit			10,020	Actual investment	<u>66,800</u>
			31,810	Maximum limit: lower of Tk.	
Less: Tax deducted at source			1,590	15,000,000 or (25% of 6,62,200)	165,550
Tax liability			<u>30,220</u>	Allowable investment	<u>66,800</u>

Notes: (1) Interest on RPF is exempted by – interest @ 14.5% (1,300 ÷ 13 × 14.5) = 1,450 or 1/3rd of B.S. i.e. 48,000; lower one. (2) Calculation of gain on sale of motor car: Total gain is Tk. 130,000 [Sales price = Tk. 150,000 Less: WDV (100,000 – 80,000) = Tk. 20,000]; Capital Gain = (Sales price – Cost) = Tk. 150,000 – Tk. 100,000 = Tk. 50,000; Revenue gain = Total gain – Capital gain = Tk. 130,000 – Tk. 50,000 = Tk. 80,000. (3) Tax deducted at source includes Tk. 350 on interest on taxable government securities, Tk. 750 on debentures; Tk.

200 on interest on savings account, Tk. 90 on post office savings account and Tk. 200 on dividend income of public limited company. (5) Both employer's and employee's contribution to RPF is investment allowance. (6) Purchase of books, shares of co-operative society and furniture is not considered as investment allowance.

Illustration 18A – 24:

Ms. Veronica Rozario furnished the following particulars of her income in the income year 2017 - 2018. Considering all these information, calculate her total income and tax liability for the assessment year 2017 – 2018:

1. **Income from salary:** Ms. Veronica Rozario is an assistant professor of a private university from where she receives basic salary following the pay scale of 35,000 -3,500 × 4 - 49,000. In the month of January 2016 she received basic salary of 38,500 and her annual salary increment date is on 1st November each year. Besides basic salary, she also received house rent allowance in cash – 40% of her basic salary; medical allowance Tk. 1,000 per month; entertainment allowance Tk. 17,200 during the year (actual expense Tk. 14,800); she has been provided with a full time car for 24 hours for both her personal and official purpose; conveyance allowance in cash Tk. 1,250 per month; She received two festival bonuses and one performance bonus (Festival bonus: one in October and another in December; Performance bonus in June) each equal to one month's basic salary; She contributed 10% of her basic salary to a Recognized Provident Fund (RPF) and her employer also contributed the same amount. She received interest @ 15% Tk. 30,000 on the accumulated balance of RPF; she contributes 5% of her basic salary to a group insurance scheme.
2. **Income from Securities:** She states the following investments in different securities from where she received interest on the due dates:

	Rate	Amount	Date of Purchase
Interest on tax-exempt government securities		2,700	01.01.16
Interest on taxable government securities		3,800	
Value of debentures	14%	200,000	01.01.17
Interest on zero coupon bond		10,000	01.01.17

Collection fee is 5% on the amount of interest collected by bank. She financed all investment in approved commercial securities by taking a bank loan @ 11%.

3. **Income from House Property:** She is the owner of a three-storied building (in each floor there are two flats) at Mohakhali. She resides with her family in one flat in the 2nd floor and her son, who is fully dependent on her, resides in another flat. Moreover, one of her married daughters also stays with her husband in one flat of the third floor for which they pay nothing to her. The other flats are let out at a monthly rent of Tk. 8,500 per flat. The municipal value of the house is Tk. 400,000. Other details of the house are as follows: During the year, maintenance expense paid by the tenants was Tk. 25,000 and she paid water and gas bill of Tk. 6,000 on behalf of the tenants. The following expenses were also incurred during the income year for that house: City Corporation tax Tk. 15,000; Insurance premium Tk. 24,000; Caretaker and Night guard salary Tk. 24,000; Legal expense Tk. 5,000; Collection charges of rent 2% of the total rent; Installment of loan paid to HBFC Tk. 12,000 (including interest Tk. 1,500); Alteration cost for ground floor Tk. 43,000. During the year one of the tenants in the ground floor leave the house without paying rent for one month. Ms. Veronica even after taking necessary legal action fails to collect this rent. Besides that the same flat remained vacant for another month during the year.
4. **Income from Agriculture:** Sale of Rice 180 maunds @ Tk. 480 per maund; income from tea garden Tk. 120,000; income from lease of agricultural land Tk. 12,000; and income from sale of

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sugarcane Tk. 38,000. She doesn't maintain the books of accounts properly. The following expenses were claimed by her as admissible expenses for the year: Production cost Tk. 100,000; Ordinary processing cost Tk. 4,000; Crop insurance premium Tk. 24,000; Land development tax Tk. 5,000; and Purchase of a tractor Tk. 30,000.

5. **Income from Business and Profession:** Profit from sole proprietorship business Tk. 120,000; loss carry forwarded from last year relating to the sole proprietorship business Tk. 10,000; and loss on speculative business Tk. 20,000
6. **Share of profit of an unregistered partnership firm (No tax has been paid by the firm):** Tk. 25,000
7. **Capital gain** Tk. 20,000
8. **Income from other sources:** Dividend from a public limited company Tk. 9,000; dividend from mutual fund Tk. 21,600; and interest on Savings Bank Account Tk. 2,700

Investment claimed by Ms. Veronica includes: payment of her own life insurance premium Tk. 12,000 (Policy value Tk. 100,000); payment of her husband's life insurance premium Tk. 8,000 (Policy value Tk. 100,000); purchase of shares of a listed company (IPO) Tk. 5,000; purchase of books and magazines Tk. 1,000; purchase of land Tk. 100,000; contribution to NTV Relief Fund Tk. 3,000; contribution to one of his poor relative as Zakat Tk. 2,500; purchase of motor cycle Tk. 150,000; contribution of Zakat to Peace TV Tk. 50,000; purchase of less tax government security Tk. 20,000. During the year she spent Tk. 200,000 to purchase a piece of land, Tk. 100,000 to purchase a motorcycle and the sources of expenditure remained unexplained to the DCT. During the year she has paid Tk. 225 as commission for collecting the dividend and Tk. 800 as interest on loan taken to purchase the shares of public limited company.

Solution 18A – 24:

Ms. Veronica Rozario Income Year: 2016 – 2017; Assessment Year: 2017 – 2018 Calculation of taxable income

	Tk.	Tk.	Tk.
1. Income from Salary (Section: 21):			
Basic salary $[(35,000 \times 4) + [(38,500 \times 8)]$		448,000	
House rent allowance $(448,000 \times 40\%)$	179,200		
Less: Exempted (note – 1)	224,000	-	
Medical allowance $(1,000 \times 12)$	12,000		
Less: lower of Tk. 120,000 or 10% of B.S.	44,800	-	
Entertainment allowance		17,200	
Conv. Facility: higher of 60,000 or $(448,000 \times 5\%)$		60,000	
Conveyance allowance $(1,250 \times 12)$		15,000	
Bonus $(35,000 + 38,500 + 38,500)$		112,000	
Employer's contribution to RPF $(448,000 \times 10\%)$		44,800	
Interest on RPF @ 15%	30,000		
Less: lower of interest @ 14.5% $(30,000/15 \times 14.5) =$ 29,000 or 1/3 rd of B.S. i.e. 149,333; lower	29,000	1,000	698,000
2. Income from Securities (Section – 22):			
Interest on exempt government securities	2,700		
Less: Exempted - Full	2,700	-	
Interest on taxable government securities (gross)	4,000		

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Less: Allowable expense –			
Bank Charge ($3,800 \times 5\%$)	190	3,810	
Interest on debentures			
($200,000 \times 14\% \times 6 \div 12$)	14,000		
Less: Allowable expense –			
Bank Charge ($13,300 \times 5\%$)	(665)		
Interest on loan ($200,000 \times 11\% \times 6 \div 12$)	(11,000)	2,335	
Interest on zero coupon bond	10,000		
Less: Exempted - full	10,000	-	6,145
3. Income from House Property (Section: 24 & 25):			
Rental value ($8,500 \times 4 \times 12$)	408,000		
Add, Owner's expense borne by tenant	25,000		
	433,000		
Less: Tenant's expense borne by owner	6,000		
Actual rental value	427,000		
Municipal value ($400,000 \times 4 \div 6$)	266,667		
Annual value (whichever is higher)		427,000	
Less: Admissible expenses –			
Repair and maintenance ($25\% \times 427,000$)	106,750		
City Corporation tax ($15,000 \times 4 \div 6$)	10,000		
Insurance ($24,000 \times 4 \div 6$)	16,000		
Interest on loan ($1,500 \times 4 \div 6$)	1,000		
Uncollectible rent ($427,000 \div 4 \times 1 \div 12$)	8,896		
Vacancy allowance ($427,000 \div 4 \times 1 \div 12$)	8,896	151,542	275,458
4. Agricultural Income (Section: 26 & 27):			
Sale of rice (180×480)	86,400		
Income from tea garden ($120,000 \times 60\%$)	72,000		
Income from lease of agricultural land	12,000		
Income from sale of sugarcane	38,000	208,400	
Less: Allowable expenses:			
Production cost [$(86,400 + 38,000) \times 60\%$]	74,640		
Crop insurance premium	24,000		
Land development tax	5,000	103,640	104,760
5. Income from Business and Profession (Sec: 28):			
Income from tea garden ($120,000 \times 40\%$)		48,000	
Profit from sole-tradership business	120,000		
Less: Set off last year's loss	10,000	110,000	
Loss on speculative business	20,000		
Less: Carry forward	20,000	-	158,000
6. Share of profit in a partnership firm			25,000
7. Capital gain			20,000
8. Income from other sources (Section: 33 & 34):			
Dividend from Public Ltd. Co. ($9,000 \times 100 \div 90$)	10,000		
Less: Exempted – upto Tk. 25,000	25,000	-	
Dividend from mutual fund ($21,600 \times 100 \div 90$)	24,000		

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Less: Exempted – up to Tk. 25,000	24,000	-	
Interest from savings acc. (2,700 × 100 ÷ 90)		3,000	
Unexplained investment: Purchase of land	200,000		
Purchase of motorcycle	100,000	300,000	
		303,000	
Less: Allowable expenses: Commission	225		
Interest on loan	800	1,025	301,975
Total income			<u>1,589,338</u>

Calculation of Tax liability:				Calculation of Allowable investment	
		Rates	Tk.		Tk.
On first Tk.	300,000	0%	-	Group insurance scheme	22,400
On next Tk.	400,000	10%	40,000	Life ins. premium - own	10,000
On next Tk.	500,000	15%	75,000	Life ins. premium – husband	8,000
On next Tk.	389,338	20%	77,868	Purchase of shares	5,000
Total	1,589,338		192,868	Contribution to RPF	89,600
Less: Investment tax credit				Less-tax govt. securities	20,000
(155,000 × 15%)			23,250	Actual investment	155,000
			169,618	Maximum limit: lower of	
Less: Tax deducted at source			4,600	Tk. 15,000,000 or 25% of	
Tax liability			<u>165,018</u>	1,589,338	397,335
				Allowable investment	<u>155,000</u>

Notes: (1) House rent allowance is exempted by Tk. 300,000 or 50% of B.S. i.e. 224,000; whichever is lower. (2) TDS includes Tk. 200 on interest on taxable government securities, Tk. 700 on debentures, Tk. 1,000 on dividend income, Tk. 2,400 on mutual fund dividend, and Tk. 300 on interest on savings account. (3) Both employer's and employee's contribution to RPF is allowable investment.

Illustration 18A – 25:

From the given information calculate taxable income and tax liability of Mr. Anis for the income year ended 30th June, 2017 after considering tax deducted at source Tk. 30,000 during the year; Last year's excess tax paid to be adjusted during the current income year as tax refund claimed Tk. 20,000; Net asset during the current income year amounted to Tk. 2.5 crore. His income from different sources includes: Salary Tk. 300,000; Income from Securities Tk. 50,000; Income from House Property Tk. 300,000; Income from Agriculture Tk. 50,000; Income from Business or Profession Tk. 200,000; Share of profit in a partnership firm Tk. 50,000; Income of the spouse or minor child Tk. 50,000; Capital Gain (The asset has been sold within 5 years of acquisition) Tk. 200,000; Income from other sources Tk. 200,000 and Foreign income (Brought to Bangladesh through Banking Channel) Tk. 50,000. During the year Mr. Anis incurred the expenses for: Insurance premium – own (Policy value Tk. 820,000) Tk. 80,000; Insurance premium – spouse (Policy value Tk. 500,000) Tk. 55,000; Deposited to pension scheme per month Tk. 6,000; Employees and employer's contribution to RPF Tk. 30,000 each; Purchase of 5 year Bangladesh savings certificate Tk. 50,000; Purchase of 10% debenture Tk. 50,000 (IPO: Tk. 20,000; Secondary: Tk. 30,000); Donated to prime minister's relief fund Tk. 45,000; Purchased shares of an unlisted company Tk. 25,000; Purchased share of a co-operative society Tk. 10,000; Purchase share of a private limited company Tk. 5,000; Purchased share of a registered partnership firm Tk. 3,000; Purchased shares of a listed company Tk. 50,000 (IPO: Tk. 30,000; Secondary: Tk. 20,000); Purchase of a Desktop Computer Tk. 55,000.

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Solution 18A – 25:

Mr. Anis

Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

Calculation of taxable income

	Tk.
1. Income from Salary (section: 21)	300,000
2. Income from Securities (section: 22 & 23)	50,000
3. Income from House Property (section: 24 & 25)	300,000
4. Income from Agriculture (section: 26 & 27)	50,000
5. Income from Business or Profession (section: 28 - 30)	200,000
6. Share of profit in a partnership firm	50,000
7. Income of the spouse or minor child	50,000
8. Capital Gain (section: 31 & 32)	200,000
9. Income from other sources (section: 33 & 34)	200,000
10. Foreign income (Tk. 50,000 less Exemption 50,000)	-
Total income	<u>1,400,000</u>

Calculation of allowable investment:

1. Insurance premium – own	80,000	
Maximum limit: 10% of Tk. 820,000	<u>82,000</u>	80,000
2. Insurance premium – spouse	55,000	
Maximum limit: 10% of Tk. 500,000	<u>50,000</u>	50,000
3. Deposit pension scheme (5,000 × 12)		60,000
4. Employee's and employer's cont. to RPF (30,000 × 2)		60,000
5. Purchase 5 year Bangladesh savings certificate		50,000
4. Purchase of debenture		50,000
5. Donation to prime minister relief fund		45,000
6. Purchase of listed company's shares		50,000
7. Purchase of desktop computer		<u>50,000</u>
Total actual investment		495,000

Maximum limit of allowable investment:

Lower of 25% of total taxable income = (1,400,000 × 25%) = Tk. 350,000 or Tk. 15,000,000.

Allowable investment for tax credit

350,000

350,000

Calculation of Tax liability:

		Rates	Tk.		
On first	Tk. 250,000	0%	-	Less: Investment tax credit @ 15%	(49,500)
On next	Tk. 400,000	10%	40,000	Less: Rebate on profit from firm	(5,895)
On next	Tk. 500,000	15%	75,000	Less: Tax deducted at source	(30,000)
On next	Tk. 250,000	20%	50,000	Less: Tax refund adjustment	(20,000)
				Tax liability to be paid	59,605
				Add: 10% surcharge on tax liability	10,961
Total	<u>1,400,000</u>		165,000	Net tax liability	<u>70,566</u>

Notes: (1) Average rate of rebate is applicable on share of profit in a partnership firm. And the average rate of tax is = (Total tax ÷ Total income) × 100 = (165,000 ÷ 1,400,000) × 100 = 11.79%. (2) Maximum Tk. 60,000

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DPS is allowable for investment tax credit for assessment year 2016-17. (3) Both primary and secondary market debentures and shares are allowable for investment tax credit for assessment year 2017-18. (4) In case of desktop computer up to Tk. 50,000 is allowable for investment tax credit. (5) 10% surcharge on net tax payable (gross tax – applicable rebates) amount is applicable if the assessee owns net asset of more than Tk. 2.25 crore.

Illustration 18A – 26:

Mr. Hossain Ahmed works as an assistant professor of a private university. His sources of income for the year ended on 30th June, 2017 are given below to calculate his tax liability for the year:

- 1. Income from Salary:** Basic salary following the pay scale of 35,000 -3,500 × 4 - 49,000. In the month of June 2016, he received basic salary of 38,500 and her annual salary increment date is on 1st November each year. Dearness allowance 10% of the basic salary; Two bonuses equivalent to two months basic salary (one in October & another in January); Medical allowance Tk. 1,000 per month ; Entertainment allowance Tk. 200 per month (actual expense Tk. 2,000); He has been provided Tk. 3,000 per month as conveyance allowance and 55% of his basic salary as house rent allowance. He has been given travel allowance of Tk. 10,000 as a reward for his good performance where he spent Tk. 8,000; He contributes 10% of his basic salary to a Recognized Provident Fund; During the year, his interest on the said provident fund @ 14% was Tk. 4,200; He has received one month arrear salary of Tk. 35,000 which was not taxed earlier.
- 2. Interest on Securities:** Value of 15% taxable govt. securities Tk. 100,000; interest on debentures Tk. 25,935; Interest on zero coupon bond Tk. 5,000. Bank has deducted 5% of interest collected as bank charge. Moreover, he has borrowed Tk. 50,000 @ 5% interest to purchase taxable govt. securities.
- 3. Income from House Properties:** He owns two houses- one in Dhanmondi (Municipal value Tk. 300,000) and another in Motijheel (Municipal value Tk. 500,000). He uses his Dhanmondi house as his own residence and Motijheel house is let out to a bank branch at a rate of Tk. 50,000 per month. He received Tk. 400,000 as advance from the tenant. During the year he spent following expenses:
For Motijheel house: Repair Tk. 100,000; Insurance expense Tk. 15,000; Land development tax Tk. 1,500; Legal expense Tk. 1,000. **For Dhanmondi house:** Repair Tk. 70,000; Insurance expense Tk. 20,000; Land development tax Tk. 1,500.
- 4. Agricultural income:** Sale of crops Tk. 5,000; Income from barga Tk. 2,000. Lease of agricultural lands Tk. 15,000; Sale of tea Tk. 10,000; sale of rubber Tk. 15,000. He has sold a tractor at a price of Tk. 42,000 (cost Tk. 40,000, accumulated depreciation Tk. 4,000).
- 5. Share of profit in a partnership firm:** Tk. 50,000
- 6. Income of spouse or minor child:** Tk. 30,000
- 7. Income from business and profession:** Profit from garments business Tk. 40,000; Net loss from Paper Business Tk. 20,000.
- 8. Capital gain from sale of shares** Tk. 50,000.
- 9. Income from other sources:** Income from royalty Tk. 10,000; Dividend from ICB Mutual Fund Tk. 31,500; Dividend from a public limited company Tk. 27,000; Profit from Islami Bank Tk. 18,000.
- 10. He has participated in Microsoft Quiz Competition in America and own 1st prize of Tk. \$1,000. He has brought the money to Bangladesh through banking channel and received Tk. 76,000 after deduction of bank charges.**

Additional Information:

- (a) **Investment claimed by Mr. Ahmed:** Payment of life insurance premium Tk. 12,000 (Policy value Tk. 100,000); Purchase of a listed company's secondary share Tk. 50,000; Purchase of books and magazines Tk. 1,000; Purchase of a share of co-operative society Tk. 20,000; Contribution to President's Relief Fund Tk. 30,000; Contribution to Govt. Zakat Fund Tk. 20,000; Purchase of a desktop computer Tk. 55,000, Contribution to DPS Tk. 6,000 per month; Purchase of treasury bond Tk. 100,000; Purchase of gold Tk. 30,000 and Purchase of Furniture Tk. 15,000.
- (b) **Net Wealth:** During the year his net wealth is amounted to Tk. 3 crore.
- (c) **Refund claim:** He has claimed Tk. 10,000 tax refund for adjustment in the assessment year 2017-18. He has the necessary documents.
- (d) **Advance tax on Car:** He has also paid Tk. 30,000 as advance tax for having a 1,950 cc Toyota car.

Solution 18A – 26:

Mr. Hossain Ahmed

Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

Calculation of taxable income

	Tk.	Tk.	Tk.
1. Income from Salary (Section: 21):			
Basic salary $\{(35,000 \times 4) + (38,500 \times 8)\}$		448,000	
Dearness allowance $(448,000 \times 10\%)$		44,800	
Bonus $(35,000 + 38,500)$		73,500	
Medical allowance $(1,000 \times 12)$	12,000		
Less: lower of Tk. 120,000 or 10% of B.S.	44,800	-	
Entertainment allowance (200×12)		2,400	
Conveyance allowance $(3,000 \times 12)$	36,000		
Less: Exempted - upto	30,000	6,000	
House rent allowance $(448,000 \times 55\%)$	246,400		
Less: Tk. 300,000 (25,000 per month)			
Or, 50% of B.S. i.e. Tk. 224,000, lower one	224,000	22,400	
Travel allowance		10,000	
Employer's contribution to RPF $(448,000 \times 10\%)$		44,800	
Interest on RPF @ 14%	4,200		
Less: Interest @ 14.5% (Tk. 4,350 or $1/3^{\text{rd}}$ of B.S (Tk. 149,333) lower one	4,350	-	
Arrear salary		35,000	686,900
2. Income from Securities (Section – 22):			
Interest on taxable government securities	15,000		
Less: Allowable expenses:			
Bank charge $(14,250 \times 5\%)$	(713)		
Interest on loan $(50,000 \times 5\%)$	(2,500)	11,787	
Interest on debentures (gross)	27,300		
Less: allowable exp. (bank charge 5%)	(1,297)	26,003	
Interest on zero coupon bond	5,000		
Less: Exempted - Full	5,000	-	37,790

3. Income from House Property (Section: 24 & 25):

Actual rental value:			
Rent received ($47,500 \times 12$)	570,000		
Add: TDS ($2,500 \times 12$)	30,000		
Actual rental value	600,000		
Municipal value	500,000		
Annual value (whichever is higher)		600,000	
Receipt of advance ($400,000 \div 5$)		80,000	
		680,000	
Less: Admissible expenses -			
Repair and maintenance ($30\% \times 600,000$)	180,000		
Insurance	15,000		
Land development tax	1,500	196,500	483,500

4. Agricultural Income (Section: 26 & 27):

Sale of crops	5,000		
Income from barga	2,000		
Lease of agricultural land	14,970		
Sale of tea ($10,000 \times 60\%$)	6,000		
Sale of rubber ($15,000 \times 60\%$)	9,000		
Gain on sale of tractor	4,000	40,970	
Less: Allow expenses: Production cost (60%)		3,000	37,970

5. Income from Bus and Profession (Section: 28)

Profit from garments business	40,000		
Net loss from paper business	(20,000)		
Sale of tea ($10,000 \times 40\%$)	4,000		
Sale of rubber ($15,000 \times 40\%$)	6,000		
			30,000

6. Share of profit in a partnership firm

50,000

7. Income of spouse or minor child

30,000

8. Capital gain (Section 31 & 32):

Gain on sale of tractor		2,000	
Gain from share business	50,000		
Less: Exempted - full	50,000	-	2,000

9. Income from other sources (Section: 33 & 34):

Interest from royalty		10,000	
Dividend from ICB M. Fund ($31,500 \times 100 \div 90$)	35,000		
Less: Exempted - up to Tk. 25,000	25,000	10,000	
Dividend of Public Ltd. Co. ($27,000 \times 100 \div 90$)	30,000		
Less: Exempted - up to Tk. 20,000	20,000	10,000	
Profit from Islami Bank ($18,000 \times 100 \div 90$)		20,000	50,000

10. Foreign Income:

Income from USA	76,000		
Less: exempted - full (brought through bank)	76,000	-	-

Total 14,08,160

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Calculation of Tax liability:				Calculation of Allowable investment	
		Rates	Tk.		Tk.
On first Tk.	250,000	0%	-	Life insurance premium	10,000
On next Tk.	400,000	10%	40,000	Share purchase	50,000
On next Tk.	500,000	15%	75,000	Contribution to : Relief fund	30,000
On next Tk.	258,160	20%	51,632	: Zakat fund	20,000
Total	<u>14,08,160</u>		166,632	Desktop computer	50,000
Less: Investment tax credit				Deposit Pension Scheme	60,000
(250,000 × 15%)+(102,025 × 12%)			(49,743)	Treasury bond	100,000
Less: Tax credit for profit on partnership firm (50,000× 11.83%)			(5,915)	Employee's and Employer's contribution to RPF	89,600
			110,974	Actual investment	<u>409,600</u>
Less: Tax deducted at source			(70,615)		
Less: Tax refund adjustment			(10,000)	Maximum limit: lower of	
Net Tax liability			30,359	25% of 14,08,100	352,025
Add: 10% Surcharge (110,974× 10%)			11,097	Or,	1,50,00,000
Total amount to be paid			<u>41,456</u>	Allowable investment	<u>352,025</u>

Notes: (1) TDS includes Tk. 750 on interest on taxable government securities, Tk. 1,365 on debentures; Tk. 30,000 on house property income, Tk. 3,500 on ICB dividend, Tk. 3,000 on public co. dividend, Tk. 2,000 on profit from Islami Bank and advance tax Tk. 30,000 for car. (2) 5% TDS is applicable on house property income as the house has been let out to a banking company. (3) Total gain on sale of tractor: (Sale proceeds – WDV) = (42,000 – 36,000) = Tk. 6,000; of this capital gain amounted to (sale proceeds – cost) = (42,000 – 40,000) = Tk. 2,000 and the rest of the amount is revenue gain i.e. Tk. 4,000 which is to be recorded under agricultural income. (4) Average rate of tax = $(166,632 \div 14,08,160) \times 100 = 11.83\%$.

Illustration 18A – 27:

Ms. Rokea Afjal works as a Managing Director of a private limited company. Her sources of income for the year ended on 30th June, 2017 are given below to calculate tax liability for the year:

- Income from Salary:** Basic salary following the pay scale of 50,000 - 5,000 × 4 - 70,000. In the month of June 2017, she received basic salary of 55,000 and her annual salary increment date is on 21st November each year. She received two bonuses equivalent to two months basic salary (one in October & another in January); Medical allowance Tk. 10,000 per month (actual expense Tk. 150,000); She has been provided a full time car and fully furnished apartment as rent free accommodation. She contributes 10% of her basic salary to a Recognized Provident Fund. During the year, her interest on the said provident fund @ 18% was Tk. 5,400; She has received leave encashment of Tk. 10,917 during the year. Moreover she is also provided with free lunch at office. Tax deducted at source from salary Tk. 60,000
- Interest on Securities:** Interest on tax exempt govt. securities Tk. 5,000, Interest on 15% taxable govt. securities Tk. 1,425; interest on debentures Tk. 25,935. Bank has deducted 10% of interest collected as bank charge.
- Income from House Properties:** She owns a house in Rampura (Municipal value Tk. 350,000). She has let out the house for residential purpose at a rate of Tk. 25,000 per month. She received Tk. 50,000 as advance from the tenant. During the year she spent Tk. 100,000 for repair and maintenance, Tk. 10,000 for city corporation tax and loan installment Tk. 240,000 (principal Tk. 170,000; interest Tk. 70,000).
- Agricultural income:** Lease of agricultural lands in village Tk. 200,000.

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5. **Income from business and profession:** Profit from readymade garments business Tk. 30,000.
6. She has purchased a 5 katha plot in Bashundhara at a cost of Tk. 15,00,000 during 1993. She has sold the plot at Tk. 1,00,00,000 in May, 2017.
7. **Income from other sources:** Interest on post office savings bank Tk. 45,000; Interest on royalty Tk. 10,000; Income from column writing in a newspaper Tk. 4,872.
8. She has done a consultancy for World Bank for 10 days in USA for which she was given an honorarium of \$5,000 and she has remitted the amount to Bangladesh through Western Union. Tk. 400,000 was credited to her account by bank in this regard.
9. Investment claimed by Ms. Rokea includes: Purchase of Laptop Tk. 110,000; Purchase of jewelery Tk. 30,000; Purchase of shares through IPO Tk. 25,000; Donation to National Heart Foundation Tk. 15,000; Donation to Prime Minister's Relief Fund Tk. 10,000; Purchase of Family Savings Certificate Tk. 10,00,000; Purchase of books and magazines Tk. 1,000; Purchase of a share of a partnership firm Tk. 20,000; Contribution to Ahsania Mission Cancer Hospital Tk. 10,000; Distribution of zakat money to street people Tk. 20,000; Donation to local mosque Tk. 10,000; Purchase of Walton Primo X2 Android Smartphone Tk. 25,000 and Purchase of an apartment Tk. 70,00,000.
10. **Net Wealth:** During the year her net wealth is amounted to Tk. 9 crore.

Solution 18A – 27:

Ms. Rokea Afjal

Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

Calculation of taxable income

	Tk.	Tk.	Tk.
1. Income from Salary (Section: 21):			
Basic salary [Note – 1]		636,667	
Bonus (50,000 + 55,000)		105,000	
Medical allowance (10,000 × 12)	120,000		
Less: lower of Tk. 120,000 or 10% of B.S.	63,667	56,333	
Conv. Facilities: higher of 60,000 or (636,667 × 5%)		60,000	
Rent free accommodation (636,667 × 25%)		169,167	
Employer's contribution to RPF (636,667 × 10%)		63,667	
Interest on RPF @ 18%	5,400		
Less: Interest @ 14.5% (Tk. 4,350 or 1/3 rd of B.S (Tk. 212,222) lower one	4,350	1,050	
Leave encashment		10,917	11,02,801
2. Income from Securities (Section – 22):			
Interest on exempt govt. securities	5,000		
Less: Exempted-full	5,000	-	
Int. on taxable govt. sec. (1,425 × 100/95)	1,500		
Less: Allowable expenses:			
Bank charge (1,425 × 10%)	(143)	1,357	
Interest on debentures (gross)	27,300		
Less: allowable exp. (bank charge 10%)	(2,594)	24,706	26,063
3. Income from House Property (Section: 24 & 25):			
Actual rental value (25,000 × 12)	300,000		
Municipal value	350,000		

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Annual value (whichever is higher)		350,000	
Receipt of advance		50,000	
Less: Admissible expenses –		400,000	
Repair and maintenance (25% × 350,000)	87,500		
City corporation tax	10,000		
Interest on loan	70,000	167,500	232,500
4. Agricultural Income (Section: 26 & 27):			
Lease of agricultural land			200,000
5. Income from Bus and Profession (Section: 28)			
Profit from garments business			30,000
6. Capital gain (Section 31 & 32):			
Gain on sale of land			85,00,000
7. Income from other sources (Section: 33 & 34):			
Interest on p.off. savings bank(45,000 × 100 ÷ 90)		50,000	
Interest on royalty		10,000	
Income from column writing		4,872	64,872
8. Foreign Income:			
Income from USA	400,000		
Less: exempted – full (brought through bank)	400,000	-	-
Total			<u>1,01,56,236</u>

Calculation of Tax liability:				Calculation of Allowable investment	
		Rates	Tk.		Tk.
On first Tk.	300,000	0%	-	Laptop	100,000
On next Tk.	400,000	10%	40,000	Share purchase	25,000
On next Tk.	500,000	15%	75,000	Contribu. to N. H. Fnd	15,000
On next Tk.	456,236	20%	91,247	Donation to relief fund	10,000
C. gain Tk.	85,00,000	15%	12,75,000	Savings certificate	10,00,000
Total	<u>10,156,236</u>		14,81,247	Ahsania Mission	10,000
Less: Investment tax credit			(156,233)	Employer's and employee's cont. to RPF	1,27,334
			13,25,014	Actual investment	<u>12,87,334</u>
Less: Tax deducted at source			(66,440)	Maximum limit: lower of	
Net Tax liability			12,58,574	25% of 1,01,56,236	25,39,059
Add: 15% Surcharge (1,325,014 × 15%)			198,752	Or,	1,50,00,000
Total amount to be paid			<u>14,57,326</u>	Allowable investment	<u>12,87,334</u>

Notes: (1) Basic salary = $[(50,000 \times 4) + \{(50,000 \times \frac{20}{36}) + (55,000 \times \frac{10}{36})\} + (55,000 \times 7)] = 200,000 + 33,333.33 + 18,333.33 + 385,000 = 636,667$. **(2)** Tax liability on total income (including capital gain): $(300,000 \times 0\%) + (400,000 \times 10\%) + (500,000 \times 15\%) + (600,000 \times 20\%) + (30,00,000 \times 25\%) + (53,56,236 \times 30\%) = 0 + 40,000 + 75,000 + 120,000 + 750,000 + 16,06,871 = 25,91,871$; So, average rate of tax = $25,91,871 / 1,01,56,236 = 25.52\%$. Since the capital asset has been sold after 5 years of acquisition, tax rate on capital gain will be average rate (25.52%) or 15%, whichever is lower i.e. 15%. **(3)** TDS includes Tk. 60,000 from salary, Tk. 75 on interest on taxable government securities, Tk. 1,365 on debentures, Tk. 5,000 on interest on post office savings bank. **(4)** Since net wealth amount is Tk. 9 crore, 15% surcharge will be applicable on tax amount. **(5)** Investment rebate will be $[(250,000 \times 15\%) + (500,000 \times 12\%) + (5,87,334 \times 10\%)] = \text{Tk. } 156,233$

Chapter – 18A: Assessment of Individuals

Illustration 18A – 28:

Mr. Ahmed works as a Deputy Secretary under the Ministry of Finance. His sources of income for the year ended on 30th June, 2017 are: **Salary Income:** Basic salary Tk. 30,000 per month; a quarter for residence at a concessional rent @ Tk. 5,000 per month although the annual rental value of the quarter is Tk. 250,000; two bonuses equivalent to two months basic salary; Medical Allowance Tk. 2,000 per month; A car for using official purpose. He contributes 10% of his basic salary to the Statutory Provident Fund. **Securities Income:** Interest on debentures Tk. 28,500 (bank charge Tk. 500). **Properties Income:** He owns a flat in Mirpur with a municipal value of Tk. 200,000 annually. He has let out the flat @ Tk. 20,000 per month for residential purpose. The total repair and maintenance cost was Tk. 70,000 and city corporation tax Tk. 2,000. During the year the flat was vacant for one month. **Agricultural income:** Sale of Paddy Tk. 50,000; Sale of Sugarcane Tk. 10,000; Income from barga Tk. 20,000; Lease of agricultural lands Tk. 15,000. **Other Income:** Dividend from a public limited company Tk. 7,200 and Interest on Post office Bank deposit Tk. 27,000.

Investment claimed by Mr. Ahmed includes, payment of life insurance premium Tk. 12,000 (Policy value Tk. 100,000); purchase of a listed company's share Tk. 30,000; DPS Tk. 4,000 per month, contribution to Govt. Zakat Fund Tk. 2,500; educational expense for children Tk. 50,000. Calculate his tax liability for the assessment year 2016-17. Will there be any difference in total income if he is not a government employee?

Solution 18A – 28:

Ms. Ahmed

Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

	Tk.	Tk.	Tk.
1. Income from Salary (Section: 21):			
Basic salary [30,000 × 12]		360,000	
Accommodation at a concessional rate (note – 5)	90,000		
Less: Rent paid	60,000		
	30,000		
Less: Exempted - Full	30,000	-	
Bonus (30,000 × 2)		60,000	
Medical Allowance	24,000		
Less: Exempted	24,000	-	420,000
2. Income from Securities (Section – 22):			
Interest on debentures (gross)	30,000		
Less: allowable exp. (bank charge)	(500)	29,500	29,500
3. Income from House Property (Section: 24 & 25):			
Actual rental value (20,000 × 12)	240,000		
Municipal value	200,000		
Annual value (whichever is higher)		240,000	
Less: Admissible expenses –			
Repair and maintenance (25% × 240,000)	60,000		
City corporation tax	2,000		
Vacancy allowance (240,000 ÷ 12)	20,000	82,000	158,000
4. Agricultural Income (Section: 26 & 27):			
Sale of paddy	50,000		
Income from barga	20,000		
Lease of agricultural land	15,000		

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Sale of sugarcane	10,000	95,000	
Less: Admissible expenses:			
Production cost (60,000 × 60%)		36,000	59,000
5. Income from other sources (Section: 33 & 34):			
Dividend from pub. LC(7,200 × 100 ÷ 90)	8,000		
Less: Exempted - upto	25,000	-	
Interest on bank deposit (27,000 × 100 ÷ 90)		30,000	30,000
Total			<u>696,500</u>

Calculation of Tax liability:				Calculation of Allowable investment	
		Rates	Tk.		Tk.
On first Tk.	250,000	0%	-	Life Ins. Premium	10,000
On next Tk.	400,000	10%	30,000	Share purchase	30,000
On next Tk.	46,500	15%	6,975	DPS	48,000
Total	<u>696,500</u>		36,975	Donation to zakat fund	2,500
Less: Investment tax credit @ 15%			(18,975)	Employee's cont. to SPF	36,000
			18,000	Actual investment	<u>126,500</u>
Less: Tax deducted at source			(5,300)	Maximum limit: lower of	
Net Tax liability			<u>12,700</u>	25% of 6,96,500	174,125
				Or,	1,50,00,000
				Allowable investment	<u>126,500</u>

If he is not a government employee, in income from salary only basic salary amount is taxable. For other heads, regular rules are applicable.

KEY POINTS

1. As per section 20 of ITO, 1984 there are seven heads of income whereas according to Income Tax Rule – 24 it has been seen that in the "Specimen Form of Income Under the ITO, 1984 – Part II" total 10 heads has been given..
2. For the assessment year 2017-18, the limit of minimum taxable income is Tk. 250,000. In case of women, elderly citizens of being more than 65 years old Tk. 300,000, for disable person, the limit is Tk. 375,000 and for gazette wounded freedom fighters Tk. 425,000.
3. Incomes specified in Part A of the Sixth Schedule of the Income Tax Ordinance, 1984 and some other incomes specified in different SROs are exempt from tax.
4. As per section 44(2)(b), a Resident assessee will get tax rebate of an amount equal to 10% to 15% of the sums specified in Part B of the Sixth Schedule.
5. There are some incomes on which a certain percentage of tax is deducted at source. It is required to gross up those income to compute tax payable income.
6. An individual received any benefit in form of cash or kind from the employer will be considered as income under the head salary.
7. Pension is exempted from tax.
8. Repair and maintenance expense is admissible expense to the extent of 25% in case of house let out for residential purpose and 30% in case of commercial purpose.
9. 10% TDS is applicable on any amount of Interest on post office savings deposit.
10. Losses generated from any head are allowable to set off against income from other heads except losses under the head speculation business and capital gain.

Multiple choice questions:

1. IT Rules, 1984 specify in the “Specimen Form of Income” _____ number of heads of income? –
 - (a) 7
 - (b) 9
 - (c) 10
 - (d) 11
2. For the assessment year 2017 – 18, the limit of minimum taxable income for a woman is –
 - (a) Tk. 200,000
 - (b) Tk. 220,000
 - (c) Tk. 250,000
 - (d) Tk. 300,000
3. For the assessment year 2017 – 18, the minimum amount of tax applicable for an individual assessee in Dhaka city corporation area is –
 - (a) Tk. 4,000
 - (b) Tk. 3,000
 - (c) Tk. 5,000
 - (d) No such limit exists
4. Non-assessable income are specified in –
 - (a) Fifth schedule Part – A
 - (b) Fifth schedule Part - B
 - (c) Sixth schedule Part - A
 - (d) Sixth schedule Part - B
5. Maximum amount eligible for such tax rebate on investment allowance is –
 - (a) 25% of total income
 - (b) Tk. 15,000,000
 - (c) Actual investment
 - (d) Lower of a & b
6. TDS rate for dividend income and interest from bank deposit is –
 - (a) 5%
 - (b) 10%
 - (c) 15%
 - (d) 20%
7. If agriculture is the only source of income for an assessee, exemption is upto –
 - (a) Tk. 120,000
 - (b) Tk. 50,000
 - (c) Tk. 220,000
 - (d) Tk. 200,000
8. What is the tax rate on capital gain arises after five years from acquisition?–
 - (a) 15%
 - (b) Average rate
 - (c) Higher of a & b
 - (d) Lower of a & b
9. Double taxation relief is applicable for –
 - (a) Salary income
 - (b) Agricultural income
 - (c) Income from business or profession
 - (d) Foreign income

10. Tax is paid for –
- an income year
 - an assessment year
 - a previous year
 - a subsequent year

Identify the following statements as True (T) or False (F):

- A non resident foreigner assessee pays tax on foreign income.
- Maximum tax rate is 30% for an individual assessee.
- A 10% surcharge on tax payable amount is applicable if the assessee states his/her net assets more than Tk. 2.25 crore but less than Tk. 5 crore.
- 10% tax is deducted from income from Lottery, winning prizes etc.
- No TDS is deducted from interest on pensioner and paribar sanchayapatra.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 18A – 1:** Explain the scope and sources of total income for an individual assessee.
- Question 18A – 2:** Enumerate the steps of computing total taxable income and tax liability of an individual assessee.
- Question 18A – 3:** What is non assessable income? Explain with reference to sixth schedule part A of the ITO, 1984.
- Question 18A – 4:** What items are included as tax credit income? State the method of calculation of tax rebate on this income.
- Question 18A – 5:** “An individual assessee is allowed to get tax rebate on certain investment” – explain.
- Question 18A – 6:** Enumerate the rate of tax applicable for an individual assessee for the assessment year 2014 – 15.
- Question 18A – 7:** What is the application of grossing up in computation of total income?
- Question 18A – 8:** Write short notes on:
- Investment allowance
 - Non assessable income
 - Total taxable income
 - Grossing Up

Consider the following income from different sources and identify relevant provisions with respect to each item.

Determine the total income and tax liability of Mr. Irfan Hasan from the following particulars relating to income year ended on 30th June, 2017.

- Income from salary:** Basic salary Tk. 5,000 per month; dearness allowance @ 10% of basic salary; two festival bonuses equal to one month's basic salary each; commission & fee Tk. 3,000; cash allowance as compensation Tk. 20,000; annuity Tk. 18,000; advance salary Tk. 15,000; entertainment allowance Tk. 500 per month. Actual expense Tk. 5,000; medical allowance Tk. 1,000 per month; retirement allowance / pension Tk. 80,000; He contributes 10% of his basic salary to a recognized provident fund; interest on the accumulated balance was Tk. 2,800 (@ 10%); servant allowance Tk. 200 per month; leave encashment Tk. 10,000; gratuity Tk.

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15,000; student advisor allowance Tk. 600 per month; travel allowance Tk. 12,000; accrued salary of the last year has been received in the current year Tk. 10,000 which has not been included in the total income of last year; Tk. 250 per month has been received for launch at office; He was provided with a non-furnished house for which 10% of his basic salary is deducted; He was provided with a car for both personal and official uses. He is also given Tk. 1,200 per month as conveyance allowance. His employer spent Tk 5,000 for maintenance of the car.

2. **Income from interest on securities:** Tk. 10,000 as interest on tax-exempt commercial securities; Interest on taxable government securities Tk. 4,000; Interest on 10% debenture – Tk. 10,000; Income from zero coupon bond – Tk. 10,000; The Bank has charged Tk. 3,000 collecting these interests. In addition to this Tk. 1,000 interest was paid for the loan taken to purchase the debenture.
3. **Income from house property:** He has a three storied house at Baridhara where he resides with his family on third floor. The ground floor of the house has been let out at a monthly rent of Tk. 10,000. His son-in-law uses the second floor of the house for his business purpose. The municipal value of the house is Tk. 400,000. Expenses relating to the house were: Repair expense Tk. 30,000; maintenance and collection expense Tk. 1,200; municipal tax Tk. 2,400; electricity bill Tk. 12,000; sewerage expense Tk. 2,000; salary of the security guard Tk 12,000; land revenue Tk. 2,600 per year; installment payment of HBFC loan Tk. 36,000 which includes interest of Tk. 3,600; fire insurance premium Tk. 2,800; legal charge Tk. 2,000; The owner has borne tenant's expense of Tk. 1,800; The tenant has borne owner's expense of Tk. 2,000; and Tk. 8,000 of the rent has not yet been collected.
4. **Income from agricultural lands:** He has agricultural lands from where his gross income from sale of paddy Tk. 65,000 and from sale of jute Tk. 42,000. On the other hand he has also received Tk. 31,000 as landlord. He did not keep proper accounts of cost of production but has maintained the proof of the following expenses: interest on borrowed capital Tk. 4,000; land development tax Tk. 1,600; insurance premium Tk. 1,400; maintenance of irrigation work Tk. 6,000; transportation cost Tk. 2,700; process cost Tk. 5,200. His other income includes: cash rentals of agricultural land Tk. 21,000; income from rent of a building solely used for business purpose Tk. 7,200; income from Tea estate Tk. 50,000; income from Rubber garden 32,000; income from sale of Palm juice Tk. 2,300; income from sale of honey Tk. 3,300; income from sale of fishes from pond Tk. 14,000; and income from sale of fruits and vegetables Tk. 5,300.
5. **Income from Business:** He is a Homeopathic practitioner and he receives Tk. 24,000 from this practice as visit fee; income from his departmental store Tk. 90,000 (Loss on last year Tk. 15,000); Loss on fast food business Tk. 23,000; and Loss from speculative business Tk. 6,000.
6. **Income from Partnership firm:** Tk. 35,000
7. **Income from Wife's and minor son's property (They don't submit tax return):** Income from his wife's property Tk. 40,000 and income from his minor son's property Tk. 20,000.
8. **Capital gain:** Sale of furniture Tk. 12,000; cost Tk. 10,000 and Book value Tk. 8,000.
9. **Income from other sources:** Dividend from a public limited company Tk. 9,000; dividend of private ltd. company Tk. 18,000; dividend from mutual fund/unit fund Tk. 36,000; interest on savings account Tk. 2,700; prize of lottery Tk. 40,000; interest on fixed deposit Tk. 3,600; dividend of a public ltd. company Tk. 2,700; interest on postal savings account Tk. 1,600; income from writing book Tk. 8,000; income from examination scripts evaluation Tk. 4,200; income from Examination invigilation Tk. 3,400; income from word competition Tk. 7,000; prize of Prizebond Tk. 24,000; income from a private university as a part-time lecturer Tk. 22,000; income from remuneration of director Tk. 14,000; income from rent of a shop owned by

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him Tk. 15,000; income from a newspaper for column writing Tk. 2,000; income from sale of forest timber Tk. 32,000; income from unused leased land Tk. 17,000; income from rental of machineries Tk. 9,000; gain from loan amortization Tk. 11,000; income from Boats Tk. 10,000; income from royalty Tk. 26,000; and income from mooring terminal Tk. 3,000.

10. **Foreign income:** Income from foreign property Tk. 90,000 received through remittance and interest on foreign bank's deposit Tk. 13,000.

During the year he incurred the following expenses:

Insurance premium – own (Policy value Tk. 42,000) Tk. 8,000; Insurance premium – spouse (Policy value Tk. 40,000) Tk. 3,000; Deposited to pension scheme per month Tk. 600; Educational expense of son Tk. 4,000; Household expenses Tk. 18,000; Donated to recognized fund Tk. 15,000; Purchase of savings certificate Tk. 24,000; Purchase of unit certificate Tk. 30,000; Purchase of postal savings certificate Tk. 80,000; Purchase of Defense savings certificate Tk. 12,000; Purchase of magazines and books Tk. 4,500; Purchase of company 10% debenture (1st time acquisition) Tk. 10,000; Donated to prime minister's relief fund Tk. 4,000; Donated to recognized high school Tk. 3,000; Donated to a local sporting club Tk. 1,000; Donated to Sir Salimullah Muslim Orphanage Tk. 5,000; The employer deducts Tk. 500 per month as group insurance premium; Donated to recognized welfare fund Tk. 3,600; Donated to government zakat fund Tk. 1,800; Gift to wife Tk. 15,000; Purchased share from an unlisted company Tk. 25,000; Purchased primary share of a listed company Tk. 15,000; Purchased share of a listed company from Dhaka Stock exchange Tk. 30,000; Donated to Bangladesh Sports Development Council Tk. 8,000; Donated to President's relief fund Tk. 5,000; and Advance payment for expenses Tk. 10,000.

Problem 18A – 1:

From the following information calculate taxable income and tax liability of Mr. Khalil for the income year ended 30th June, 2017: Income from Salary Tk. 600,000; Income from Securities (net) Tk. 35,000; Income from House Property Tk. 452,000; Income from Business or Profession Tk. 525,000 and Income from other sources Tk. 125,000.

During the year Mr. Khalil incurred the following expenses:

Insurance premium – own (Policy value Tk. 600,000) Tk. 40,000; Insurance premium – spouse (Policy value Tk. 300,000) Tk. 30,000; Deposited to pension scheme per month Tk. 1,250; Educational expense of son Tk. 40,000; Household expenses Tk. 262,000; Donated to recognized fund Tk. 38,000; Purchase of savings certificate Tk. 60,000; Purchase of Defense savings certificate Tk. 20,000; Purchase of 10% debenture Tk. 20,000; Donated to prime minister's relief fund Tk. 45,000; Donated to a local sporting club Tk. 25,000; Donated to Sir Salimullah Muslim Orphanage Tk. 25,000; Donated to recognized welfare fund Tk. 12,500; Donated to government zakat fund Tk. 35,500; Gift to wife Tk. 75,000; Purchased share of an unlisted company Tk. 25,000; Purchased primary share of a listed company Tk. 45,000; Purchased share of a listed company from Dhaka Stock exchange Tk. 40,000; Donated to Bangladesh Sports Development Council Tk. 12,000; Donated to President's relief fund Tk. 25,000; and Purchase of a Laptop Tk. 120,000.

Problem 18A – 2:

Mr. Jashim has the following income for the income year ended on 30th June, 2017:

Mr. Jashim received basic salary of Tk. 32,000 in the month of June, 2017 following the scale of his salary 26,000 – 3,000 – 35,000. The date of annual increment of his salary is 1st April. Besides basic salary he received dearness allowance @ 10% of basic salary; Entertainment allowance and Medical allowance @ 15% and @5% of basic salary respectively; Annual bonus and fees Tk. 45,000;

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house rent allowance Tk. 14,000 per month; conveyance allowance Tk. 1,700 per month. He contributes 10% of basic salary to a recognized provident fund (RPF) and his employer also contributes the same in the fund. During the year he received Tk. 18,000 as interest on provident fund and the rate of interest was 16%. He contributes to old age fund @ 3% of basic salary.

Mr. Jashim invested Tk. 60,000 in 13% tax exempt government securities, Tk. 70,000 in 12% taxable government securities, Tk. 250,000 in 15% debentures (purchased on 1st January 2017). He took a 10% loan of Tk. 350,000 and from the loan Tk. 200,000 used to purchase debenture. Bank charges 2.5% as collection fee of these interests. Mr. Jashim made and incurred the following investment and expenses during the said year:

Life insurance premium Tk. 12,000; value of the policy worth Tk. 100,000; Purchase of Books Tk. 3,000 and purchase of scientific instruments Tk. 8,000; Purchase of Shares of Approved Company Tk. 15,000; Donation to Educational and Religious institutions Tk. 7,000; donation to Zakat fund Tk. 6,500; donation to president relief fund Tk. 15,000; donation to national sports federation Tk. 9,000; donation to a local club Tk. 10,000; donation to a blind school Tk. 25,000; Purchase of a piece of land worth Tk. 270,000 in the name of his wife and a sum of Tk. 12,000 was spent for its registration; Spent a sum of Tk. 17,000 as educational expenses of his children; Purchase of ICB unit certificate Tk. 30,000; Purchase of Gold Tk. 32,000; an contribution to group insurance Tk. 1,800.

Ascertain his total income and tax to be paid in the assessment year of 2017 – 2018.

Problem 18A – 3:

Mr. Fahad is the general manager of a private company. His sources of income for the year ended 30th June, 2017 were as follows:

1. **Income from Salary:** Basic salary per month Tk. 38,000; medical allowance per month Tk. 2,500; house rent allowance per month Tk. 19,500; conveyance allowance per month Tk. 2,500; he and his employer contribute 10% of the basic salary to a recognized provident fund and Tk. 3,500 per month has been deducted from his basic salary as advance tax.
2. **Income from Securities:** Interest received from tax exempt government securities Tk. 27,000; and interest received from taxable government securities Tk. 36,000.
3. **Income from house property:** Annual rent received (from half of the house) Tk. 3,15,000; municipal value for the house Tk. 650,000; Expenses related to the house for the year - repair and maintenance Tk. 90,000; and municipal tax Tk. 9,000.
4. **Income from Agriculture:** Sale of crops Tk. 165,000.

In the said year Mr. Fahad incurred investment and expenses for: life insurance premium Tk. 60,000; donation to local mosque Tk. 10,000; and purchase share from secondary market Tk. 54,000. From the above particulars of Mr. Fahad calculate tax liability for the year.

Problem 18A – 4:

Mr. Newas is the employee of a private textile firm. From the following particulars of his income for the year ended 30th June, 2017. Calculate taxable income and tax liability.

Basic salary Tk. 19,000 p.m.; Entertainment Allowance Tk. 1,200 p.m.; House Rent Allowance (Actual rent paid Tk. 7,500 p.m) Tk. 10,000 p.m.; Conveyance allowance Tk. 700 p.m.; Medical Allowance (Actual expenditure Tk. 8,000 p.a.); Tk. 1,000 p.m.; and Bonus 3 month's basic salary. Mr. Newas contributed 10% of basic salary to Recognized Provident Fund and his employer also contributed the same amount. He received Tk. 8,000 as interest on the accumulated balance of

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Recognized Provident Fund @9% p.a. During the year Mr. Newas received interest from 11% taxable government securities Tk. 22,500. He also invested Tk. 250,000 in 10% debentures on 1st July, 2017. Bank charged him 5% as collection fees. Mr. Newas also received dividend from share of a public limited company Tk. 4,500, interest from savings account Tk. 2,700 and win a lottery of Tk. 210,000. During the year Mr. Newas purchase savings certificate of Tk. 36,000 and donate Tk. 12,000 to Dhanmondi shorts club.

Problem 18A – 5:

Followings are the sources of income of Mr. Alam for the year ended 30th June, 2017:

1. **Income from Salary:** Basic salary per month Tk. 20,000; Entertainment allowance per month Tk. 1,000; House rent allowance per month Tk. 11,000; Conveyance allowance per month Tk. 1 500; Medical allowance per month Tk. 500; Annual performance bonus equal to two and half month's basic salary; and Festival Bonus – 2 months basic salary. Mr. Alam contributed 10% of basic salary to Recognized Provident Fund (RPF). He received Tk. 3,000 as interest on the accumulated balance of Recognized Provident Fund @ 14.5%p.a. He has been provided with a car fully for his personal use. During the year his employer spent Tk. 48,000 for maintaining the car.
2. **Income from House Property:** Mr. Alam is the owner of a three storied house at Dhanmondi, Dhaka. He let out each floor at a monthly rent of Tk. 15,000. Annual municipal value of the house is Tk. 600,000. Beside all the repair and maintenance expenses, he paid municipal tax of Tk. 6,500; insurance premium Tk. 22,300; interest on mortgage loan Tk. 2,700 for the house. The ground floor remains vacant for 2 month during the year. Besides one month's rent from the ground floor also becomes uncollectible during the year.
3. **Income from Business or Profession:** Profit from sole proprietorship business Tk. 85,000. In the previous year he incurred loss of Tk. 20,000 in the same business and carry forward Tk. 7,000 for set off in this year. During the year he also generated profit from partnership firm Tk. 55,000.
4. **Income from other sources:** Divident received Tk. 45,000 from a private limited company; and interest received form bank savings account Tk. 3,600.

During the year Mr. Alam incurred the following expenses:

He paid Tk. 60,000 and Tk. 45,000 as insurance premium for his own and his spouse respectively. He purchase share of a company from primary market Tk. 7,500. He also purchases medical books for Tk. 12,000 during the year. He donated Tk. 32,500 to prime minister's relief fund; Tk. 12,000 to his relatives and Tk. 25,000 to Aga Khan Development Foundation. Calculate Mr. Alam's taxable income and tax liability for the assessment year 2017-18.

Problem 18A – 6:

Mr. Azimul Hoque presents the following particulars of income for the year 2016 – 2017. Compute total taxable income and Tax liability of Mr. Azimul Hoque for the assessment year 2017-18.

Income from Salary: Basic salary on 1st August, 2016 was Tk. 11,200 in the scale of 8,500 – 900 × 10 – 17,500. His date of yearly salary increment is on 1st April. He received Dearness Allowance @ 8% of B.S. and Medical Allowance of Tk. 700 per month. He received two bonuses each equivalent to one month's basic salary – both received before date of increment. He contributes 10% of his basic salary to Statutory Provident Fund. He has been provided with a rent free quarter for which 5% of B.S. is deducted. He received interest on Provident Fund Tk. 4,500 at an interest rate of 13%. He has been provided with a car for office and private use for which Tk. 300 per month is charged.

Income from Securities: 8% tax exempt government securities Tk. 37,000; Interest on taxable

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government securities Tk. 4,000 (gross); Interest on debenture Tk. 15,000; and he paid bank charge Tk. 800 to collect interest from tax free government Securities.

Income from House Property: He has a house. Half of the house is let out at Tk. 8,000 per month and the other half is used for his residence. The Municipal Value of the house is Tk. 200,000. Expenses of the house for the year were as follows: Land development tax Tk. 1,500; Repair Tk. 15,000; Interest on H.B.F.C. Loan Tk. 8,500; maintenance for Water Pump, etc. Tk. 2,000 and Municipal Taxes Tk. 4,400. The house remained vacant for one month during the year.

Agricultural Income: Income from rubber garden Tk. 35,000 and Sale of Agri-products Tk. 620,000. Other expenses (excluding production cost) relating to agricultural were Tk. 25,000.

Business Income: Income from sole-tradership business Tk. 77,000; last year's loss carried forward Tk. 11,000.

Other income: Prize of Prize Bond Tk. 22,000; Interest on Bank Deposits (Gross) Tk. 9,000; Dividend income Tk. 18,000; Profit from Islami Bank Tk. 7,000; and Interest on 5 year Bangladesh Savings Certificate Tk. 27,000.

During the year he incurred expenses for: Family expenses Tk. 28,000; Insurance Premium-own (policy value Tk. 500,000) Tk. 60,000; Insurance Premium-spouse (Policy value Tk. 400,000) Tk. 30,000; Purchased share from an unlisted company Tk. 25,000; Purchased primary share of a listed company Tk. 20,000; Purchased share from Stock Exchange Tk. 90,000; Purchased Books Tk. 4,000; Donated to Prime Minister's Relief Fund Tk. 10,000; Deposited to Pension Scheme per month Tk. 500; and Paid to Zakat fund Tk. 3,000.

Problem 18A – 7:

Mr. Selim is the chief accountant of a public limited company. His sources of income for the year ended 30th June, 2017 were as follows:

1. **Income from Salary:** Basic salary (per month) Tk. 22,000; Entertainment Allowance 5% of basic salary; Medical Allowance 10% of basic salary; Two Bonus (each equal to one month's basic salary); Mr. Selim has been provided with a rent free furnished house annual rental value of which was Tk. 96,000 and a full time car for his personal use. He contributed 10% of basic salary to Recognized Provident Fund (RPF) and his employer also contributed the same amount. He received interest @ 15% Tk. 18,000 on the accumulated balance of RPF.
2. **Income from Security:** Tk. 35,000
3. **Income from House Property:** Tk. 348,000
4. **Income from Agriculture:** Income from tea garden Tk. 32,000 and other agricultural income Tk. 25,000.
5. **Income from Business or Profession:** Income from sole proprietorship business Tk. 237,000; and last year's loss carried forward Tk. 17,000.
6. **Capital Gain:** Mr. Selim purchased a machine for his sole proprietorship business on 1st August 2010 at Tk. 75,000. On 31st March 2017 it was sold for Tk. 82,000 when the WDV was Tk. 60,000.
7. **Other income:** Dividend from Mutual Fund Tk. 25,000; dividend from Unit Fund Tk. 21,000; dividend from a limited company Tk. 9,000; interest from bank deposit Tk. 5,400; interest from 3 year Bangladesh savings certificate Tk. 18,000; royalty received as an author Tk. 55,000; and Prize of lottery Tk. 75,000.

Mr. Selim made and incurred the following investment and expenses respectively during the said year: life insurance premium Tk. 40,000; value of the policy worth Tk. 600,000; deposited to pension scheme per month Tk. 2,500; household expenses Tk. 1,78,000; investment in primary

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share of a listed company Tk. 30,000; investment in Recognized Provident Fund (RPF) both by employee and employer total Tk. 52,800; donated to prime minister's relief fund Tk. 95,000; purchase of ICB certificate Tk. 35,000 . Ascertain his tax to be paid in the assessment year.

Problem 18A – 8:

Mr. Miskat is a service holder. Calculate his tax liability considering the following sources of income for the year ended 30th June, 2017:

Basic Salary	Tk. 15,500 per month
Medical Allowance	Tk. 1,500 per month
Conveyance Allowance	10% of Basic Salary
Performance Bonus	3 months Basic Salary
Leave encashment	15 days leave

He has been provided with a car for personal use and also a rent free furnished house with annual rental value of Tk. 60,000. In this income year he spent Tk. 16,000 from Medical Allowance. He received two festival bonuses each equal to a month's basic salary. He contributed 10% of basic salary to Recognized Provident Fund (RPF) and his employer also contributed 8% to the fund. He received interest @ 14.50% Tk. 20,000 on the accumulated balance of RPF.

Mr. Miskat received Tk. 310,000 from the sale of agri-products and Tk. 15,000 from rentals of agricultural land. He did not maintain any books of accounts regarding income from agriculture but he submitted following details of expenses – land development tax Tk. 4,100; local tax Tk. 3,750; insurance premium Tk. 8,500; maintenance cost of irrigation plant Tk. 12,650 and Tk. 6,350 as interest on loan taken from Krishi Bank. According ITO he is allowed to charge depreciation Tk. 3,500 against the machineries used for agricultural purposes.

During the year he earned the followings from different other sources – Tk. 18,500 from sale of fishes from pond; dividend from ICB unit certificate Tk. 11,000; dividend from private limited company Tk. 6,750; interest on bank deposit Tk. 7,200; profit from Islami Bank Tk. 7,500 and interest on 3 year Bangladesh savings certificate Tk. 18,000. He purchased shares worth Tk. 100,000 of an approved company (public) in the income year and disposed it off within six months of the purchase making a gain of Tk. 120,000. He was the original allottee of the shares.

During the year he incurred and made the following expenses and investments: insurance premium paid (policy value Tk. 400,000) Tk. 40,000; purchase primary share of a listed company Tk. 35,000; purchased Law and academic books Tk. 5,000; donated to Deposit pension Scheme per month Tk. 2,000; paid to Zakat Fund Tk. 15,000; purchase of savings certificate Tk. 28,000.

Problem 18A – 9:

Mr. Rayan is an executive of a private firm and received basic salary (BS) of Tk. 28,000 per month. His other income for the income year 2016 – 2017: House rent allowance Tk. 10,500 per month; Medical allowance Tk. 1,700 per month; Two festival bonus each equal to one month's Basic Salary; He contributes to old age fund @ 5% of BS; His employer provides him a car for full time personal use. He also received Tk. 800 per month as entertainment allowance out of which he spends Tk. 8,000 during the year. He withdrawn two month's BS in advance and contributes to Recognized Provident Fund @ 10% of BS and his employer also contributed the same amount.

He received interest from tax exempt government securities Tk. 12,000 and interest from taxable government securities Tk. 5,400. Besides these sources he has the following investment in different securities on which interest has been accrued:

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Securities	Investment	Rate of interest	Date of purchase
Tax exempt government securities	Tk. 70,000	12%	15.02.16
Taxable government securities	50,000	13%	01.06.16
Debentures	40,000	15%	01.10.16

Collection fee is 5% on the amount of interest collected by bank. Mr. Rayan finances all investment in unapproved securities by taking a bank loan @ 12% interest per annum.

Mr. Rayan is the owner of a four-storied building at Mohakhali. Mr. Rayan resides with his family in the 2nd floor and all other floors (in each floor there are two flats) are let out at a monthly rent of Tk. 8,750 per flat. The municipal value of the house is Tk. 900,000. The expenses that were incurred in the income year 2016 – 2017 for that house includes: repair expenses Tk. 70,000; city corporation tax Tk. 24,000; insurance premium Tk. 18,000; Caretaker and Night guard salary Tk. 30,000; Land revenue paid Tk. 2,800; Mortgage interest paid Tk. 4,000; Interest paid to HBFC Tk. 6,000; Alteration cost for ground floor Tk. 42,000. One flat remains vacant for 2 months during the year.

Income from other sources includes prize of lottery Tk. 200,000; interest on fixed deposit Tk. 12,150; income from word competition Tk. 800; income from sale of forest timber Tk. 28,000; and sale of used furniture Tk. 5,000 (Cost price Tk. 9,000). Mr. Rayan made and incurred investment and expenses during the said year for: life insurance premium Tk. 40,000; policy value Tk. 450,000; Purchase of Share from IPO Tk. 55,000; donation to Educational and Religious institutions Tk. 18,000; donation to Zakat fund Tk. 20,500; donation to national sports federation Tk. 8,000; donation to a local club Tk. 2,000; Spent a sum of Tk. 45,000 as educational expenses of his children; purchase of ICB certificate Tk. 30,000 and Contribution to group insurance Tk. 6,000. Ascertain his total taxable income and tax to be paid in the assessment year 2017 – 2018.

Problem 18A – 10:

Mr. Gomes furnished the following particulars of his income in the income year 2016 – 2017. Calculate his taxable income and net tax liability for the assessment year 2017 – 2018.

- Income from salary:** (after all adjustment following ITO, 1984) Tk. 422,500.
- Income from Securities:** Mr. Gomes received interest from tax exempt government securities Tk. 7,200, interest from taxable government securities Tk. 7,200 and interest from debentures Tk. 13,000. Bank charge collection fees of Tk. 1,233 against the interest collected by the bank. Mr. Gomes borrows Tk. 8,000 @ 12% to finance investment in approved commercial securities.
- Income from House Property:** Mr. Gomes is the owner of a three-storied building at Mohakhali. Mr. Gomes resides with his family in the 2nd floor, the ground floor is used by his son as medical chamber and the other floor is let out at a monthly rent of Tk. 15,500. The municipal value of the house is Tk. 510,000. The following expenses were incurred during the income year for that house: city corporation tax Tk. 2,200 per quarter; White wash expense Tk. 25,000; Insurance premium Tk. 12,000; Electricity for water pump Tk. 3,000; Caretaker's salary Tk. 2,500 per month (which was paid by the tenants); Land revenue paid Tk. 3,300; Mortgage loan paid Tk. 45,400 (of which Tk. 40,000 is principal on loan); Interest paid to HBFC Tk. 2,400; and Alteration cost for ground floor Tk. 37,000.
- Income from Agriculture:** Sale of Jute 310 maunds @ Tk. 250 per maund and Income from Rubber garden Tk. 80,000.
- Income from Business and Profession:** Share of profit from Partnership firm Tk. 85,000; and Profit from sole proprietorship business Tk. 75,000.

During the year he incurred and made the following expenses and investments:

Life insurance premium paid Tk. 68,000; Purchase of shares: Unlisted company Tk. 28,000 and Listed company Tk. 42,000; Donated to: Prime Minister's Relief Fund Tk. 55,000, Religious institution Tk. 8,000 and Local club Tk. 3,000; Deposited to Pension Scheme per month Tk. 2,000; and Purchase of books Tk. 6,000.

Problem 18A – 11:

Mr. Rahman is an executive who state the details of his income for the year ended 30th June, 2017 as: Basic salary Tk. 18,000 per month; dearness allowance Tk. 1,500 p.m.; entertainment allowance Tk. 1,000 p.m.; medical allowance Tk. 1,200 p.m. and conveyance allowance Tk. 1,500 p.m.. He is allowed free furnished accommodation. The house that he lives in, is however, owned by him and he let it out to the company he serves at a monthly rent of Tk. 20,000. He is also allowed a car for his private use. He received Tk. 12,000 as travel allowance out of which he spends Tk. 10,000 during the year.

Mr. Rahman owns a house standing on a plot of land measuring 5 kathas in Dhanmondi residential area. He entered into an agreement with a developer and according to the agreement he would get 8 flats out of 16 flats that the developer would construct. 6 flats out of 8 flats measure 1450 square feet each and rest two 1200 square feet each. The selling price of the 1450 s.f. flats is Tk. 35 lac each and 1200 s.f. is Tk. 28 lac each. The land was purchased for Tk. 700,000 and the building standing on the plot of land cost him Tk. 1,500,000. The present selling price of the plot of land is around Tk. 1.25 crore. His Income from other sources includes interest on Postal Saving Bank Account Tk. 9,000; interest on Approved Securities Tk. 22,000; dividend from Public Limited Company listed with Stock Exchange Tk. 3,600. It was declared by the Company in May, 2014 but actually received in August, 2014; Tk. 100,000 was received as salami from a newly constructed shop by virtue of a lease agreement covering 5 years. The assessee opted for allocating this income proportionately; He holds agricultural land from which he earned Tk. 50,000 as agricultural income. He claimed Tk. 32,000 as expenses for the purpose but failed to provide any record against it; interest on Fixed Deposit Tk. 12,500. During the year his actual allowable investment was Tk. 400,000.

Required: Calculate his tax liability for the assessment year 2017-18.

Problem 18A – 12:

Mr. Milky CEO of a Multinational Company in Bangladesh has got the following income for the income year ended 30th June 2017. You are required to calculate the total income and tax payable of Mr. Milky considering: Basic pay Tk. 150,000 p.m. sent to his bank account; Rent free accommodation fully furnished by the company; Full time company car for 24 hrs. for his own use and for his family; Company pays Tk. 100,000 p.m. for his three school going children which is paid to the school authority directly; He received two festival bonuses equivalent to basic pay during the festival time which he spent partly for his family and partly for the poor people in his village; Driver's salary Tk. 10,000 p.m. paid to his driver's bank account; Company paid Tk. 300,000 to him during the year being the reimbursement of various utility bills of his house; Land and mobile bill paid Tk. 5,000 p.m.; He was paid Tk. 1,000,000 for his overseas travels for the official trip out of which he saved 25% during the year; He was paid for international club Tk. 250,000; He received interest on securities Tk. 150,000 on his investments; He has got one house of his own at Baridhara and he received total Tk. 1,200,000 as rent during that income year; He paid Tk. 150,000 as life insurance premium by himself; He invested Tk. 1,500,000 on government bonds and primary shares of various companies; and Received dividend Tk. 150,000 during the year.

Problem 18A – 13:

Mr. Abi is a salaried employee of a private company. His salaries and allowances are as follows, based on which compute his tax for the assessment year 2017 – 2018: Basic salary Tk. 25,000 per month; House rent allowance Tk. 17,000 per month; Conveyance allowance Tk. 2,000 per month; Entertainment allowance Tk. 1,000 per month; Two months salary paid as bonus for the relevant income year; He contributed Tk. 2,500 to his provident fund while his employer contributes and equal amount; He has let out his house property to a foreign mission as office. The rent he gets is Tk. 60,000 per month; He has sold one vacant plot of land at Tk. 2,500,000 which he purchased seven years back at Tk. 1,000,000. The gain derived from this property has been invested in the purchase of shares of a public limited company; He also sold another building and land appurtenant thereto at Tk. 2,000,000. This property was acquired in 1978 at Tk. 300,000. He informed the DCT that another house property will be purchased for office like the old one in about a year's time; He sold savings certificates purchased two years back at Tk. 47,000. He purchased 5 years sanchoy patra during the same year at a cost of Tk. 200,000.

Problem 18A – 14:

Miss Fatema is the Finance Controller of a Manufacturing company, had the following income under different head during the income year 2016 – 2017:

Income from Salary: Basic Salary (BS) Tk. 35,000 per month; Miss Fatema has been provided a rent free full furnished accommodation for which the company paid monthly rent of Tk. 20,000; Entertainment allowance Tk. 2,000 per month; Medical allowance @ 10% of BS; Incentive bonus Tk. 200,000; Advance salary Tk. 35,000; Leave fare assistance received Tk. 120,000 for traveling abroad (actual spending Tk. 110,000) as a part of her agreement. She is provided with a servant at a monthly salary of Tk. 3,000; She has been provided with a full time car; She contributed Tk. 3,000 per month to a RPF where her employer also contributes the same amount; She received interest @13.5% from accumulated balance of RPF Tk. 27,000; Insurance premium born by the employer Tk. 10,000 per quarter; and She received gratuity Tk. 140,000 during the year.

Interest on Security and Other sources: Interest on tax exempt government securities Tk. 27,000; Interest on taxable government securities Tk. 20,000 (gross); Interest on debentures Tk. 48,000; All the above interest has been collected by a bank and the bank charge 5% as collection fees. Miss Fatema borrowed Tk. 100,000 @ 10% interest to finance investment in debentures. Remuneration received as consultant Tk. 45,000; Income from letting agricultural land Tk. 20,000; Dividend from a limited company Tk. 18,000; Sale of pond fish Tk. 8,000; and Income from minor Tk. 23,000.

You are required to compute the total income of Miss Fatema and the tax for the assessment year ended 2017-18 considering her allowable investment is Tk. 250,000 for the year.

Problem 18A – 15:

Mr. Asmit has been working in a private firm starting with a basic pay of Tk. 20,000 with 10% increase in every year which results a monthly salary of Tk. 27,500 in the month of June, 2017. The date of annual increment was 1st October. He is also entitled to a house rent allowance @ 60% of basic salary; profit bonus @ 1.5% of net profit of the firm; two festival bonuses each equal to a month's basic pay (both received after increment) and a full time car. Mr. Asmit contributed 10% of basic salary to RPF and his employer also contributes the same percentage in that fund. He received Tk. 110,000 as interest @ 14% from the RPF during the year. From his salary Tk. 2,500 has been deducted as advance income tax per month. During the year net profit of that firm was Tk. 750,000. Mr. Asmit is the owner of a two storied building at Baridhara, Dhaka and he let out the whole building at a monthly rent of Tk. 27,000. Besides all other maintenance expense he paid

municipal tax of Tk. 1,500 per quarter for that house. Mr. Asmit took a loan of Tk. 1,000,000 @ 14% from a bank by placing that house as collateral to meet the construction cost. During the year he paid installment of loan Tk. 54,720 (including interest of Tk. 4,800).

During the year Mr. Asmit visit Pakistan as a consultant and generated Tk. 200,000 and he paid income tax @ 25% in Pakistan as per DTA. From another visit to Russia he generated Tk. 300,000 and paid income tax @ 20%. Mr. Asmit has received Tk. 3,600 as interest from the savings account of his minor child and he has purchased shares of Tk. 200,000 of Public Limited Companies in the name of his wife from which his wife has received Tk. 54,000 as dividend. Ascertain total taxable income and tax liability for Mr. Asmit for the assessment year 2017 – 2018. Consider allowable investment for the year is Tk. 250,000 and his wife did not submit any return in her name.

Problem 18A – 16:

Ms. Tarana Halim has the following sources of income for the year ended on 30th June, 2017:

Income from Salary: Basic Salary (BS) Tk. 12,000 per month; Dearness allowance 20% of the BS; Two festival bonuses and one performance bonus each equivalent to one month's BS; Medical allowance Tk. 1,000 per month; Conveyance allowance Tk. 2,000 per month; Conveyance allowance Tk. 2,000 per month; House rent allowance 60% of the BS; She contributes 10% of his basic salary to an un-recognized Provident Fund. Her employer also contributes the same amount; during the year, her interest on the said provident fund @ 13% was Tk. 1,300; she has been rewarded with a travel allowance of Tk. 50,000 for travel to Maldives as recognition of her good performance. She spent Tk. 45,000 there. This allowance was not as a part of his regular contract.

Interest on Securities and House Properties: Value of 10% tax exempt govt. securities Tk. 30,000; Interest on taxable government securities Tk. 6,300; Interest on debentures Tk. 15,000; and Interest on Zero Coupon Bond Tk. 3,000. The bank has charged Tk. 4,000 to collect all the above interests. Moreover, she has borrowed Tk. 100,000 @ 10% to invest in the unapproved securities. She owns two houses in Mirpur. She uses one of the houses as his residence and another one has been let out for commercial purpose at a rate of Tk. 12,000 per month. The municipal values of both the houses are Tk. 100,000 and Tk. 120,000 per annum respectively. During the year, she has spent Tk. 15,000 for the house he uses as residence and the expenses for the let out house were: Repairs Tk. 6,000; Legal charges Tk. 4,000; Municipal tax Tk. 1,500; Land revenue Tk. 1,000; and Salary of the caretaker Tk. 10,000. During the year, the house remained vacant during June, 2013.

Agricultural income: Sale of crops Tk. 15,000; Income from lease of agricultural land Tk. 12,000; Income from sale of sugarcane Tk. 10,000; and Income from rubber garden Tk. 12,000. **Capital gain:** She purchased 750 shares worth Tk. 75,000 of a listed company in the income year 2015 -2016 and sold all in the same income year at Tk. 100,000. Moreover, she has sold a 3 Katha plot in Dhaka at Tk. 1,000,000 the cost of which is Tk. 600,000.

Income from other sources: Interest income from savings bank account Tk. 1,800; interest on post office savings bank account Tk. 900; dividend from a private limited company Tk. 1,800; sale of fish from pond Tk. 2,000; royalty from government Tk. 10,000; honorarium as a guest lecturer Tk. 25,000; and prize of National Heart Foundation Lottery Tk. 50,000.

Investment claimed by Ms. Tarana Halim: Payment of life insurance premium Tk. 12,000 (Policy value Tk. 100,000); Donated to a Mosque Tk. 500; Purchase of books Tk. 1,000; Purchase share of a co-operative society Tk. 2,000; Contribution to: NTV Relief Fund Tk. 3,000, one of his poor relative as Zakat Tk. 2,500 and Contribution to Ahsania Mission Cancer Hospital Tk. 20,000.

Based on the above information, calculate Ms. Tarana Halim's taxable income and tax liability for the assessment year 2017 – 2018.

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Answers:

Multiple choice questions		True/False
1. c	6. b	1. F
2. d	7. d	2. T
3. c	8. d	3. T
4. c	9. d	4. F
5. d	10. a	5. F

Self review 18A – 1:

- (a) Purchase of income tax book : will not be considered
- (b) Share purchase from IPO : will be considered
- (c) Contribution to old age fund : will be considered
- (d) Purchase of land : will not be considered

Self review 18A –2:

- (a) (i) $(7,600 \div 95 \times 100) = \text{Tk. } 8,000$
(ii) $(7,600 \div 80 \times 100) = \text{Tk. } 9,500.$
- (b) $(9,500 \div 90 \times 100) = \text{Tk. } 10,000$

CHAPTER - 18B

ASSESSMENT OF FIRMS

© LEARNING OBJECTIVES ©

After studying Chapter 18B, you shall be able to understand:

- ⊕ The concept of partnership and partner
 - ⊕ Special provisions regarding the assessment of a firm
 - ⊕ Procedure of assessment of a firm
 - ⊕ Procedure of assessment of a partner
 - ⊕ Set off and carry forward of losses of a firm
 - ⊕ Share of spouse or minor child in a firm
 - ⊕ Liability of a firm for unrecoverable tax due from partners
 - ⊕ Assessment under special cases
-

A partnership firm is not defined explicitly in IT Ordinance, 1984; rather the term 'Firm' is used to mean a partnership firm and is defined as "firm has the same meaning as assigned to it in the Partnership Act, 1932" [U/s 2(32)]. Thus, the term firm is used here unanimously to mean a partnership firm, which is further confirmed in section 2(44).

18B.1 PARTNERSHIP AND PARTNER

Partnership is the relationship among partners who run the business collectively to make and share profits. Thus, in business sense, 'partnership' and 'partners' are totally separable where partnership constitutes the business entity (artificial entity) and partners constitute the ownership (physical entity). A clear distinction is needed between partnership and partners whenever the question of assessment of a partnership firm comes because both partnership and partners are assessed for tax purposes separately. Partnership is assessed as a business entity and partners are assessed as individuals.

A partnership firm is not a legal entity like a corporation under the general law. But for the purpose of Income Tax a firm has an assessable entity. Thus in ITO, a firm has dual distinctive consideration. At one side, the income of partnership firm is calculated as it has been calculated in case of companies. Because, partnership firms do nothing but business and that is why, it has income under the head 'income from business or profession'. On the other side, firm is taxed at a rate applicable to an individual, as the status of a firm is not similar to that of a company.

18B.2 SPECIAL PROVISIONS REGARDING THE ASSESSMENT OF A FIRM

A firm as an assessee can go for assessment on correct return (U/s - 82), assessment after hearing (U/s- 83) or best judgment assessment (U/s - 84), as the case may be, for assessing its total income. Tax payable by the firm shall be determined on the basis of total income of the firm as assessed.

Whenever any determination is made in accordance with this section, the Deputy Commissioner of Taxes shall, by an order in writing, notify to the firm,

- (a) The amount of tax payable by it, if any;
- (b) The amount of the total income on which the determination has been based; and
- (c) The apportionment of the amount of income between the several partners.

18B.3 PROCEDURE OF ASSESSMENT OF FIRM AND PARTNERS

Assessment of firm means computation of tax liability of a firm in any income year on the basis of total taxable income of the firm. Thus we have to compute the taxable total income of the firm first, on which tax will be levied at specified rate. Computation of total taxable income of a firm will require some additional considerations. We have to adjust the accounting profit to compute tax profit as conventional accounting principles and tax accounting principles differ substantially. To do this, we may go for the following procedures:

- (1) At first, we have to start with the accounting profit as computed through partnership Profit and Loss Account.
- (2) Then the profit so found should be adjusted in line with Sec. 28 (income), Sec. 29 (deductions) and Sec. 30 (deductions inadmissible) of ITO, 1984.
- (3) The profit so computed will be distributed among the partners as per their respective profit and loss sharing ratio.
- (4) The profit as calculated is taxable provided that the total income exceeds the exemption limit, i.e., Taka 250,000.
- (5) The rates for individuals will also be applicable for a firm as follows:

Total Income Slabs		Applicable Rates
On first	Tk. 250,000	Nil
On next	Tk. 400,000	10%
On next	Tk. 500,000	15%
On next	Tk. 600,000	20%
On next	Tk. 3,000,000	25%
On balance		30%

However, every firm having gross receipts of more than Tk. 5,000,000, will be liable to pay minimum tax of an assessment year at the following rates (U/S 82C(4)):

Classes of Assessee	Rate of Minimum Tax
Manufacturer of cigarette, bidi, chewing tobacco, smokeless tobacco or any other tobacco products	1% of the gross receipts
Mobile phone operator	0.75% of the gross receipts
Any other cases	0.60% of the gross receipts
Industrial undertaking engaged in manufacturing of goods for the first three income years since commencement of its commercial production.	0.10% of the gross receipts

However, if the firm is subject to tax deducted at sources U/S 82C(2), minimum tax should be the higher one between tax computed U/S 82C(2) and U/S 82C(4).

SELF REVIEW 18B – 1

The tax rate for a firm and an individual is same. Do you agree or not?

- (6) The firm may also claim tax rebate @ 15% on allowable investments as individuals.
- (7) Partners' taxable income will be a total of salary, interest, commission etc from the firm and share of profit or loss as computed in step 3. The total income will be taxed at the individual tax rates. Income from firm is to be considered as tax free income

because tax on this part is already paid by the firm, and partners will get rebate at average rate on their partnership income from tax so computed. They may also claim rebate for qualifying amount of investment allowance, if any, in normal way.

Note: Firms may not be required to pay tax due to income less than Taka 250,000 or carry forward and set off of previous year's losses. In such a situation, partners will pay tax in a normal way but cannot claim any rebate on profit received from firm, as firm has not paid taxes on such profit.

18B.4 SET OFF AND CARRY FORWARD OF FIRM'S LOSSES

- (1) In case of losses sustained by a firm under any head of income shall be set off only against the income of the firm under any other head and not against the income of any of the partners of the firm [U/s 42(3)(a)].
- (2) Any loss from business can be carried forward for setting off against such income, if any, for 6 consecutive years (U/s - 38).
- (3) If there is any loss from any speculation business, it should be set off in the same year against income from other speculative businesses and if there is no other such business, it can be carried forward for six consecutive years to set off only against the income from such speculative business (U/s - 39).
- (4) If there is any loss under the head 'capital gain' can be carried forward for six consecutive years if the loss exceeds Taka 5,000 for setting off against income from capital gains only so much of such loss as exceeds Taka 5,000 (U/s - 40).
- (5) Any loss under the head 'agricultural income' can also be carried forward for setting off against income from this head for 6 consecutive years [U/s – 41].
- (6) In case of changes in constitution of a firm, the proportionate loss of a retired or deceased partner cannot be carried forward by the firm [U/s – 42(5)(a)].

18B.5 SHARE OF SPOUSE OR MINOR CHILD IN A FIRM AND ASSETS TRANSFERRED

If the spouse or minor child holds share in a partnership firm where the assessee is also a partner then the income of the spouse or minor child will be assessed along with the assessee. But if they are partners of different firms, they should be assessed separately. Even when husband and wife become partners in a professional firm like accounting, law or medicine, they should be assessed separately. In such a situation where both husband and wife are assessed separately, it may be a problem if they have a minor child who is also a partner. The tax law is silent regarding this issue and so the income of a minor child may be assessed with the income of the husband or the wife. But, it would be better if the income of a minor child is assessed with the income of either husband or wife whose taxable income is less to be in line with the canons of equity and transparency. In computing the total taxable income of any partner in such situations, followings will be included:

18B.5.1 Income of the spouse or minor child arising directly or indirectly from:

- (a) Membership of the spouse in a firm where the assessee is a partner;
- (b) Admission of the minor child to the benefits of partnership in a firm where the assessee is a partner;
- (c) Assets transferred directly/indirectly by an assessee to the spouse other than as gift or for adequate consideration or in connection with an agreement to live apart; Or
- (d) Assets transferred directly or indirectly by an assessee to a minor child, not being a married daughter, other than by way of gift or for adequate consideration; and

18B.5.2 Income of any person or association of persons arising from assets transferred by an assessee to the spouse or minor child or both for the benefit of the spouse or minor child or both other than by way of gift or for adequate consideration.

18B.6 COMPUTATION OF PARTNERS' SHARE IN THE FIRM'S PROFIT OR LOSS

To compute partners' share in the firm's profit or loss, we need to adjust any interest, salary, commission or any other payment made to partners in any other mode. Then the balance will be distributed among the partners as per the respective profit and loss sharing ratio. So the share of a partner in a firm will be taken to be any salary, interest, commission or other remuneration payable to him by the firm in the income year increased or decreased respectively by his share in the balance of the profit or loss of the firm. If the partners have their individual income with the shared income from the firm, such shared income should be added with other individual income to compute the partners' total taxable income. If the firm has already been taxed, partners will not pay tax on such shared income (Para 16, Part B, 6th Schedule). But, this addition of shared income with other income may enhance the rate of tax for such other income or may bring the partners within the ambit of taxation where such partners' individual income was below the taxable limit.

SELF REVIEW 18B - 2

If a firm pays Tk. 10,000 to a partner as rent for using his house property, which one will be true? –
(a) Rent will not be an allowable expense (b) Rent will be an allowable expense with no other effect (c) Rent will be an allowable expense for the firm but for the partner, it will be an income from house property.

18B.7 LIABILITY OF A FIRM FOR UNRECOVERABLE TAX DUE FROM PARTNERS (U/S - 98)

Where any tax payable by partner of a firm in respect of his share of the income from the firm cannot be recovered from him, the DCT shall notify such amount of the tax to the firm. Upon notification, the firm so notified shall be liable to pay the said tax and, for the purposes of recovery thereof, shall be deemed to be an assessee in respect of such tax.

18B.8 ASSESSMENT OF FIRMS IN SPECIAL CASES

The assessment of a firm in special cases like changes in constitution, succession, dissolution etc. will have some more issues to be taken into consideration. More often, there may be a change in the composition (how many members a firm have) of a firm through admission or retirement of partner(s). A partnership firm may be reconstituted under different circumstances also. These situations are figured on the next page:

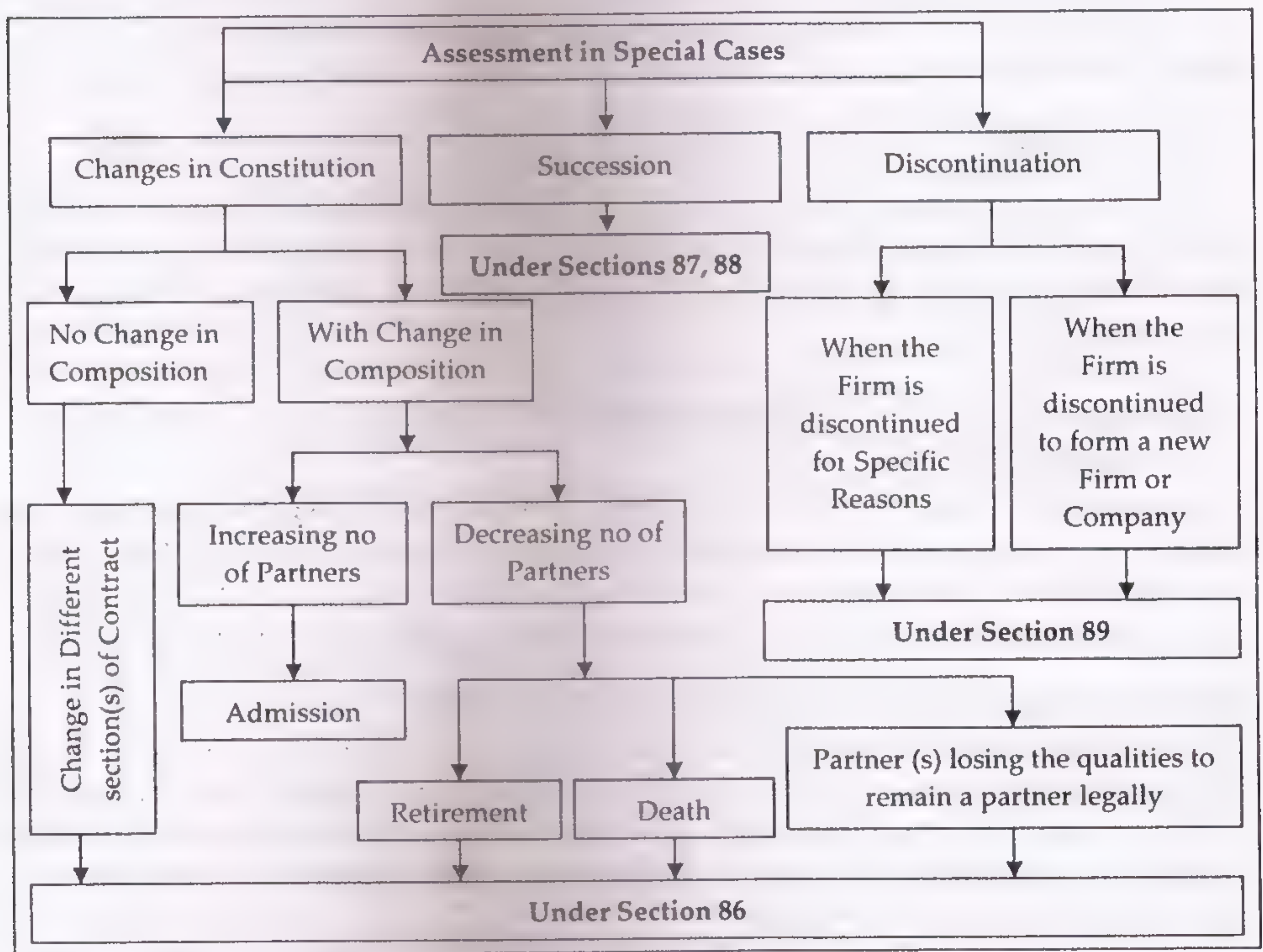
18B.8.1 Changes in Constitution:

18B.8.1.1 Assessment in case of change in the constitution of a firm (U/s - 86): There is a change in the constitution of a firm under this section

1. Where all the existing partners or some of them continue with a change in their respective profit and loss sharing ratios; or
2. Where one or more persons who were partners, continue to be so with a change by cessation of one or more partners or addition of one or more new partners.

If at the time of assessment it is found that a change has occurred in the constitution of the firm as defined above, the assessment of the firm shall be made in normal way as if there is no change in the constitution of the firm. The words "at the time of assessment" mean in

the course of the process of assessment and do not refer merely to the act of making an assessment order – *Maharajadhiraj of Darbhanga Vs. C.I.T.* 1934 I.T.R. 345 (P.C.). Thus where a notice calling for a return has been issued to any person, the process of assessment has begun and continues until an order of assessment is made. And if a change in the partnership composition occurs at any time before the assessment is made this section would apply. But this section would have no application to a case where the change occurs after the assessment of the firm is completed – *In re Chimanlal Lalbhai* 1944 I.T.R. 199. The taxable income of the firm will not be affected due to such changes rather the section is used to find out the partners upon whom the tax liability should be imposed – *Indian Iron & Steel Co. Ltd. Vs. C.I.T.* 1943 I.T.R. 328, 337 (P.C.). The partners will share the income of the firm as per the changes in the constitution and if the tax assessed upon a partner cannot be recovered from him, it shall be recovered from the firm as constituted at the time of making the assessment.



18B.8.2 Succession: The simplest case of succession is the transfer by one trader to another of the business along with the goodwill, i. e.,

- ❖ the right to that benefit which arises from connection and reputation – *Thomson & Balfour Vs. Le Page* 8 T.C. 541.548.
- ❖ Succession may be by transfer inter vivos, or by inheritance or devolution on the death of the owner – *Dubash's Executors Vs. C.I.T.* [1951] 19 I.T.R. 182 (S.C. of India), or
- ❖ by acquisition where the whole property and undertaking of the trader vests in the Government – *Bramford's Road Transport Ltd. Vs. Exans* 35 T.C. 145.
- ❖ Thus, where there is a change of ownership it is a case of succession and not discontinuance – *I.T. Appellate Tribunal Vs. Bachraj Nathani* 1946 I.T.R. 191. 203.

Case Reference: *Ghella Dayal Vs. C.I.T. 1945 I.T.R. 133.138.*

A firm of 3 partners carrying on business in piece of goods was started in 1932. On Oct 30 1939 one of the partners died. On Nov 12 1939 a new firm was formed by the two surviving partners with three more new partners and the shares of the five partners were reshuffled. The new firm carried on the same business in the same premise under the old trade name with separate set of account books and the management of the business before and after the change remains identical. There were several outstanding contracts of the old firm. The assets and liabilities of the old firm were taken over by the new firm after some months. During the relevant accounting year, the net profit of the old firm was Rs. 56,000 and that of the new firm was Rs. 10,500. In assessing the new firm the I.T.O. held that both the profits were the profits of new firm in as much as the business of the old firm was continued by the new firm and there was no more than the change in the constitution of the firm. The Appellate Tribunal agreed with the decision of the I.T.O. and the new firm was rightly assessed to income tax and the partners were liable in respect of the share to which they were individually entitled. If the tax assessed upon any partner cannot be recovered from him, it must be recovered from the firm as constituted at the time of making the assessment.

18B.8.2.1 Requisites of Succession: The requisites of succession are as follows:

- (a) There should be a change of ownership;
- (b) The integrity of the business should remain same;
- (c) The identity and continuity of the business should be substantially preserved.

⇒ **Change in ownership:** For being a succession taken place, there should be a valid transfer of ownership. In a case where there is no transfer of ownership, e.g. where a receiver is appointed, there is no succession (*I.R. Vs. Thompson 20 T.C. 422*). If there is only an agreement to transfer, it would not be regarded as involving a succession.

⇒ **Integrity of business:** Succession necessarily implies devolution of the business as a whole. There can be no succession unless the business retains its integrity despite the change of ownership. Where a business is split up and another person carried on part of the business, he doesn't succeed his predecessor in carrying on the business. If there is substantial identity and similarity in the nature and extent of the activities carried on between the two firms, and if the major portion of the liabilities and assets have been taken over by the new firm from the old partnership, there is a succession (*Kaniram Ganpatrai Vs. C.I.T. [1953] 23 I.T.R. 314.322*).

⇒ **Identity and continuity of the business:** Succession occurs only where the same business is carried on by a different person. There is no succession where a business terminates and a different though similar business is carried on by another person or by a newly constituted firm (*Industrial Development & Investments Co. Ltd. Vs. C.E.P.T. [1957] 31 I.T.R. 688*). Where there is no continuity in carrying on the business and when one business has come to an end and after a time another business is started, it may be with the same assets & under the same conditions & in the same premises as the old business, the persons carrying on the new business do not succeed those who had carried on the old business.

SELF REVIEW 18B – 3

For a succession in operation, which of the following conditions should be fulfilled? – (a) Transfer of ownership (b) Similar line of business (c) Both.

18B.8.2.2 Assessment in case of constitution of new successor firm (U/s - 87): Sometimes one firm (predecessor) terminates and another new firm (successor) forms where also a change in constitution required. Where, at the time of assessment of a firm, it is found that

a new firm has been constituted to succeed the firm to which the assessment relates the predecessor firm and the successor firm should be assessed separately in accordance with the provisions of section 88 that relates to assessment in case of succession.

18B.8.2.3 Assessment in case of succession to business otherwise than on death (U/s - 88):

In a specific income year, if a person has been succeeded therein otherwise than on death by another person and if he continues to carry on that business or profession, then the total income year will be apportioned between the predecessor and successor as follows:

- (a) The predecessor shall be assessed, in respect of the income of that income year in which the succession took place, for the period up to the date of succession, and
- (b) The successor shall be assessed, in respect of the income of the income year, for the period after the date of succession.

If the predecessor is not found, the assessment up to the date of succession and of the income year or years preceding that year shall be made on the successor in the like manner and to the same extent as it would have been made on the predecessor. Even if the predecessor is found but the sum cannot be recovered from him, the DCT shall record a finding to that effect, and thereafter the sum payable by the predecessor shall be payable by, and recoverable from, the successor who shall be entitled to recover it from the predecessor. However, the successor cannot claim to carry forward and set off the losses incurred by his predecessor. Nor can the predecessor carry forward, because such carry forward right is conditional upon the continuance of business in which the loss was incurred. *Indian Iron Steel Co. Ltd. Vs. I.T.R. 328, 337.*

18B.8.3 Discontinuation

The words 'discontinued' and 'discontinuance' do not cover mere change of ownership or a change in the constitution of the firm, but refer to a complete cessation of business (*Meyyappa Chettiar Vs. C.I.T. 1943 I.T.R. 243*). Even if a company passes a resolution that it will undertake no further business, the Department may hold that the resolution is colourable & the company has not discontinued its business (*Gladstone Development Co. Ltd. Vs. Strick 30 T.C. 131*).

Assessment in case of discontinuation of a Firm (U/s - 89): Where any firm is discontinued in any financial year, assessment may be made in that year on the basis of the total income of the period between the end of the income year and the date of such discontinuance in addition to the regular assessment, if any, made on the basis of the income year [U/s - 89(1)]. The DCT should be notified regarding such discontinuance within fifteen days thereof; and such notice shall be accompanied by a return of total income in respect of the period between the end of the income year and the date of such discontinuance and that financial year will be the assessment year in respect of the income of the said period [U/s - 89(2)].

Where a person fails to give the notice of such discontinuance the DCT may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of tax subsequently assessed on him in respect of any income from the business or profession up to the date of its discontinuance [U/s - 89(3)]. The DCT may serve a notice for maximum 7 days to the partner(s) to furnish a return of total income along with such other particulars, records and documents as may be specified in the notice [U/s - 89(4)]. The notice as served here for assessment of a discontinued firm under section 89(4) will be treated as a notice served under section 77 - Notice for filing return [U/s - 89(5)].

Chapter – 18B: Assessment of Firms

SPECIMEN FORM OF COMPUTATION OF TAXABLE INCOME OF A FIRM

Assessee:

Assessment Year: 2017 – 2018

Income Year: 2016 – 2017

	Taka
Net Income / Loss as per Profit and Loss Account	XX
Add: Distribution to the owners in terms of interest, salary, commission etc.	XX
Add: Other non-admissible expenses already debited into the P/L Acc, e.g., drawings, interest on drawings, capitalized expenditure etc.	XX
Add: Other non-admissible expenses as per section 30 and expenses that has maximum slabs, e.g., entertainment expense, perquisites, free sample etc.	XX
Add: Expenses charged at a different rate (depreciation expense)	XX
Less: Admissible expenses as per the rates mentioned in ITO	(XX)
Less: Income from other sources already credited in P/L Acc	(XX)
Add: Income from business or profession but not credited in P/L acc	XX
Less: Expenses that has maximum slabs as per different Rules	(XX)
Less: 50% income of export business	(XX)
Less: loss carried forward from previous year	(XX)
Taxable Income of the Firm from Business or Profession	XX
Add: Non-Business income of the Firm, say	
a) Interest on Securities	XX
b) Income from House Property	XX
c) Capital gains	XX
d) Income from Other Sources	XX
Total Taxable income of the Firm	<u>XX</u>

SPECIMEN FORM FOR ALLOCATION OF INCOME OF THE FIRM

(Assuming 2 partners, A & B by name)

	A	B	Total Taka
Income of Partners received from the firm:			
(a) Salary	XX	XX	XX
(b) Interest on Capital	XX	XX	XX
(c) Interest on Loan	XX	XX	XX
(d) Commission	XX	XX	XX
(e) Other receipts as per the constitution	XX	XX	XX
(f) Interest on Drawings (expense for the partner)	(XX)	(XX)	(XX)
(g) Share of Profit or	XX	XX	XX
(h) Share of Loss	(XX)	(XX)	(XX)
Total Income of Partners from the firm	<u>XX</u>	<u>XX</u>	<u>XX</u>

SPECIMEN FORM FOR COMPUTATION OF TAXABLE INCOME OF PARTNERS

(Assuming 2 partners, A & B by name)

	A	B
Income from the firm	XX	XX
Income from other different heads (U/s - 20)	XX	XX
Total Taxable Income of Partners	<u>XX</u>	<u>XX</u>

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Illustration 18B – 1:

Mr. X, Mr. Y and Mr. Z are the three equal partners of XYZ & Associates. The profit and loss account for the year ended on June 30, 2017 was given below:

XYZ & Associates Profit and Loss Account For the year ended on June 30, 2017			
	Tk.		Tk.
Rent	36,000	Gross Profit	400,000
Utilities	22,000		
Commissions	54,000		
Advertisements	12,000		
Interest on Capital:			
X – 8,000; Y – 7,000; Z – 5,000	20,000		
Salaries: X – 26,000; Y – 24,000	50,000		
Net Profit	206,000		
	400,000		400,000

Other Information: Rent includes Tk. 12,000 paid to Mr. X who partially owns the business premises; Tk. 15,000 of commission is given to Mr. Z for his special assignment; and partners have income from different sources as follows:

	Mr. X	Mr. Y	Mr. Z
Income from House Property	60,000	-	40,000
Income from Interest on Securities	50,000	80,000	-
Agricultural Income	-	-	50,000
Income from other sources (Dividend)	25,000	25,000	25,000

Required: (1) Compute the taxable income of the firm, (2) Compute the amount of tax liability of the firm, (3) Show the amount of distribution to the partners, (4) Compute the amount of taxable income of the partners and (5) Compute the amount of net tax liability of the partners.

Solution 18B – 1:

Requirement 1: Taxable income of the firm

	Tk.	Tk.
Net Profit as per Profit and Loss A/C		206,000
ADD: Distribution to the Owners:		
Interest on Capital:		
Mr. X – 8,000		
Mr. Y – 7,000		
Mr. Z – <u>5,000</u>	20,000	
Salaries:		
Mr. X – 26,000		
Mr. Y – <u>24,000</u>	50,000	
Commission:		
Mr. Z –	15,000	85,000
Total Taxable Income of the Firm		291,000

Chapter - 18B: Assessment of Firms

Requirement 2: Tax liability of the firm

	Tax Rate	Tk.
On First Tk. 250,000	0%	Nil
On Next Tk. <u>41,000</u>	10%	<u>4,100</u>
On Total Tk. 291,000		<u><u>4,100</u></u>

Requirement 3: Distribution to the Partners

	Partners			Total	Amount left to be Distributed
	Mr. X	Mr. Y	Mr. Z		
Amounts to be distributed					291,000
Interest on Capital	8,000	7,000	5,000	20,000	271,000
Salaries	26,000	24,000	-	50,000	221,000
Commission	-	-	15,000	15,000	206,000
Profit (1:1:1 ratio)	<u>68,666</u>	<u>68,667</u>	<u>68,667</u>	<u>206,000</u>	
Total amount allocated	<u><u>102,666</u></u>	<u><u>99,667</u></u>	<u><u>88,667</u></u>	<u><u>291,000</u></u>	

Requirement 4: Taxable income of the Partners

	Mr. X	Mr. Y	Mr. Z
1. Income from Interest on Securities	50,000	80,000	-
2. Income from House Property (less cost of repairs and maintenance @ 25%)	45,000	-	30,000
3. Agricultural Income (less cost of cultivation @ 60%)	-	-	20,000
4. Income from Firm	102,666	99,667	88,667
5. Income from Other Sources - Dividends	25,000	25,000	25,000
Total Taxable Income	<u><u>222,666</u></u>	<u><u>204,667</u></u>	<u><u>163,667</u></u>

Requirement 5: Net tax liability of the partners

Partners are not required to pay any tax as their income does not exceed tax exemption limit. However, minimum tax requirement of the firm is not shown due to the amount of gross receipt of the firm is unknown.

Illustration 18B – 2:

A, B & C are partners sharing profits and losses in a ratio of 2:2:1. The particulars of income for the year ended 30th June 2017 are as under:

(a) **House Properties:** The firm owns a building consisting of three floors of identical specification, two of which are used for the firm's business and one is let out at a rent of Tk. 10,000 per month. The firm has earned Tk. 30,000 by putting up a display of an advertisement hoarding of a multinational company on the roof of the building during the year.

(b) **Business in Cotton Textiles:** The trading accounting for the year was as under:

Debit	Taka	Credit	Taka
Opening Stock	500,000	Sales	5,400,000
Purchases	4,500,000	Closing Stock	600,000
Gross Profit	<u>1,000,000</u>		
	<u><u>6,000,000</u></u>		<u><u>6,000,000</u></u>

The closing stock has been uniformly valued at 12.50% under cost. Depreciation and other expenses debited to profit and loss account amount to Tk. 400,000 which included among other

things, following items: (1) Repairs to Building: Let –out portion Tk. 8,000 and Portion used for business Tk. 12,000. (2) Municipal Taxes Tk. 23,000 (Total municipal taxes for the year were Tk. 27,000 of which the tenant paid Tk. 4,000.) (3) Annual contribution to Cotton Dealers Association, a trade association Tk. 2,000. (4) Contribution to Prime Minister’s Relief Fund Tk. 5,000. (5) Salaries to the partners: A – Tk. 24,000; B – Tk. 48,000 and C – Tk. 72,000. (6) Interest paid on a loan of Tk. 500,000 taken for installing computer accounting system in the firm’s premises (The computer and peripherals were duly installed during the period) Tk.. 75,000. (7) It was claimed that Tk. 10,000 credited in the profit and loss account should be deducted as representing receipt of capital nature. It was stated that the amount has been received from a textile mill as damages for failure to deliver goods as per contract. (8) Loss on speculative transactions Tk. 150,000. A had no other sources of income but B and C were also partners in another firm with D as the third partner. The shares of B, C & D for the year ended 30th June 2017 were as under:

Partners	Salary	Interest	Profit/ (Loss)	Total
B	-	-	(50,000)	(50,000)
C	-	-	(50,000)	(50,000)
D	60,000	20,000	(50,000)	30,000

B has also income from a house property at London amounting to Tk. 600,000 (after deduction of 25% tax at source). C has other personal income of Tk. 50,000.

Required: (a) Compute tax to be paid by the firm in which A, B and C are partners and total taxable income in the hands of those partners from all sources. (b) State the principles governing the basis of taxability of total income of A, B & C.

[ICAB Adapted]

Solution 18B – 2:

Requirement – (a): Computation of total taxable income of the firm:

	Taka	Taka	Taka
(1) Income from house property (U/s - 24):			
Annual Value: Actual rent (12 months @ Tk.. 10,000)	120,000		
ADD: municipal tax paid by the tenants	<u>4,000</u>		
	124,000		
And: Corporation valuation	<u>nil</u>		
<i>Whichever is higher</i>		124,000	
Less: repairs and maintenance (25% of annual value, assuming that proper books have not been maintained)	31,000		
Less: municipal tax for let-out portion (1/3 ÷ 27,000)	<u>9,000</u>		
Taxable income from House Property		<u>40,000</u>	84,000
(2) Income from Business (U/s - 28):			
Gross Profit as per Trading Account		1,000,000	
ADD: Understatement of Closing Stock (Tk.. 100,000 ÷ 0.875 × 0.125)		<u>14,285</u>	
		1,014,285	
Less: Depreciation and other expenses		<u>400,000</u>	
		614,285	
Add: Expenses inadmissible			
Repairs – let out portion	8,000		
Municipal taxes (23,000 – 2/3 of 27,000)	<u>5,000</u>		

Chapter - 18B: Assessment of Firms

Salaries to partners	144,000	
Loss on speculative transactions	<u>150,000</u>	
Taxable income from Business	<u>307,000</u>	921,285
(3) Income from other sources (U/s - 33):		
From display of advertisement		<u>30,000</u>
Total Taxable income of the Firm		<u>1,035,285</u>

Computation of Investment Allowance: Actual allowable investment is contribution to Prime Minister's Relief Fund by Tk. 5,000 and the maximum limit of investment is, 30% of total taxable income, i.e., 30% of 1,035,285 = Tk.. 310,586 or, Tk. 15,000,000 whichever is less.

Computation of Tax Liability of the Firm:

	Tax Rate	Tk.
On First Tk. 250,000	0%	Nil
On Next Tk. 400,000	10%	40,000
On Next Tk. 385,285	15%	<u>57,793</u>
On Total Tk.1,035,285		97,793
Less: Rebate on investment allowance (15% of Tk. 5,000)		<u>750</u>
Net tax liability		<u>97,043</u>

Minimum Tax: It is not possible to compute the minimum tax for the firm as gross receipt of the firm is unknown.

Allocation of Profit to Partners (A, B & C)

	Partners			Total	Amount left
	A	B	C		
Amounts to be distributed					1,035,285
Salaries	24,000	48,000	72,000	144,000	891,285
Profit (2:2:1 ratio)	<u>356,514</u>	<u>356,514</u>	<u>178,257</u>	<u>891,285</u>	
Total amount allocated	<u>380,514</u>	<u>404,514</u>	<u>250,257</u>	<u>1,035,285</u>	

Total Taxable Income in the hands of the Partners:

	A	B	C
1. Income from Firm (A, B & C)	380,514	404,514	250,257
2. Income from Firm (B, C & D) – set off	-	(50,000)	(50,000)
3. Income from Other Sources	-	-	50,000
Total Taxable Income	<u>380,514</u>	<u>354,514</u>	<u>250,257</u>

Tax Liability of Partners: **Partner A:** As A has no other income except income from the firm, A's tax liability will be the minimum tax of Tk. 5,000. Because A will get rebate on his share of income from firm on which tax has been given by the firm. **Partner B:** B's income has been reduced by setting of loss from another firm where he is also a partner. But, he cannot claim any refund here. Refund cannot be claimed on tax given by the firm. **Partner C:** C will get rebate of his total tax as the firm has already given tax on the same amount. But, C will have to pay tax limited to the minimum amount like another partner A.

Requirement – (b): If a partner receives income as his share of profit from a partnership firm over which firm has already given taxes, partners will receive rebate on average rate. As A has no other

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income, he will receive rebate to the fullest amount of tax liability that results tax liability equals to zero. But, as assessment is made in his name, he has to pay the minimum amount of tax. The case of C is same whose taxable income is also equal to share of profit from firm. But, B's situation is different in the sense that his share of profit has been reduced due to set off of share of losses from another firm where B is also a partner. B cannot claim any refund for the amount of tax given by firm. The governing principle is that an amount of same income should not be taxed twice, once in the hand of the firm and again in the hand of the partners. So, firm will pay tax on usual rate and partners will get rebate on average rate.

Notes: (1) Loss on speculative transactions can be set off against gain from such other speculative transactions, if any, or can be carried forward to set off against gain from such speculative business for six consecutive years. But, it cannot be charged against profit as expense. (2) Accounting depreciation and tax depreciation is assumed to be same as no such information is given. (3) As closing stock is always understated, the impact is shown on the differential figure of opening and closing stock, i. e., on Tk. 100,000. (4) B's income from house property arising in London has been excluded as an application of Article 6 (immovable property and income there from immovable property) of the Double Taxation Avoidance Agreement between Bangladesh and U.K.

Illustration 18B – 3:

Meem Enterprise is a firm comprising of two equal partners named Meem and Noon. During the year ended on June 30, 2017, the partners besides their shares in the firm enjoyed income and substantial losses from the sources given below:

Meem: Profit on trading in immovable property Tk. 50,000; Income accrued in Pakistan from partnership but not remitted to Bangladesh Tk. 75,000; Share of loss from an Association of Persons (AOP) Tk. 15,000 and Gift tax paid Tk. 25,000. **Noon:** Speculation loss Tk. 40,000; Profit on sale of car Tk. 50,000; Income from betting Tk. 5,000 and Income tax refund Tk. 10,000. The profit and loss account of the firm for the year ended June 30, 2017 showed the following position:

Expenditure	Taka	Income	Taka
Salaries: Staff	48,000	Gross profit b/d	205,000
Meem	15,000	Share premium	10,000
Noon	12,000		
Office Contingencies	4,000		
Repairs	23,000		
Doubtful Debts	4,000		
Income tax paid for the last year	5,000		
Legal expenses	5,000		
Commission to Meem	3,000		
Premium on the policies of partners	5,000		
Depreciation	11,000		
Net Profit: Meem 40,000 Noon 40,000	80,000		
	<u>215,000</u>		<u>215,000</u>

Included in repairs are Tk. 10,000 on account of cost of typewriter to be depreciated @ 10% p.a. as per taxation law; legal expenses are inclusive of Tk. 2,000 being the fine imposed by Custom Authorities for banned items; office contingencies include Tk. 2,000 spent as commission for investment in shares and depreciation admissible excluding on Typewriter is Tk. 8,000. Calculate taxable income and taxes payable by firm & complete the income taxable in the hands of partners.

(ICAB adapted)

Chapter – 18B: Assessment of Firms

Solution 18B – 3:

Meem Enterprises Assessment year 2017 – 2018; Income year 2016 – 2017

	Taka	Taka
Net profit as per accounts		80,000
Add: Depreciation (considered separately)		<u>11,000</u>
		91,000
Add: Inadmissible expenses		
Salaries to partners (Meem + Noon)	27,000	
Doubtful debt	4,000	
Income tax paid for the last year	5,000	
Commission to Meem	3,000	
Premium on the policies of partners	5,000	
Repairs – cost of typewriter	10,000	
Legal expenses – fine imposed by custom	2,000	
Office contingencies – commission for investment in shares	<u>2,000</u>	<u>58,000</u>
		149,000
Less: Tax Depreciation (Tk.. 8,000 + 10% on Tk. 10,000 cost of typewriter)		<u>9,000</u>
		140,000
Less: Share Premium		<u>10,000</u>
Taxable income of the firm		<u>130,000</u>

Allocation of Profit to Partners

Particulars	Partners		Total	Amount left to be Distributed
	Meem	Noon		
Amounts to be distributed				130,000
Commission	3,000	-	3,000	127,000
Salaries	15,000	12,000	27,000	100,000
Insurance Premium	2,500	2,500	5,000	95,000
Profit (allocated on 1:1 ratio)	<u>47,500</u>	<u>47,500</u>	<u>95,000</u>	
Total amount allocated	<u>68,000</u>	<u>62,000</u>	<u>130,000</u>	

Income Slabs	Tax Rate	Tk.
On First Tk. <u>130,000</u> (Up to 250,000)	0%	<u>Nil</u>
On total Tk. 130,000		<u>Nil</u>

Minimum Tax: for the firm cannot be calculated as gross receipt of the firm is unknown.

Taxable income of Partners:

Meem:

Share of income from Firm	Taka	68,000
Foreign income – income accrued in Pakistan		75,000
Income from other sources – profit in trading of immovable property		<u>50,000</u>
Total taxable income		193,000
Less: set off losses from Association of Persons (AOP)		<u>(15,000)</u>
Taxable Income		<u>178,000</u>

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Noon:

Share of income from Firm

Taka 62,000

Taxable Income

62,000

Noon's taxable limit is less than Tk. 250,000 and so he will not pay any tax. For the same reason income tax refund of Tk. 10,000 will be unadjusted.

Notes: (1) Speculative loss can only be set off against gain from other speculative business. Noon has speculation loss of Tk. 40,000 and income from betting of TK. 5,000. After setting off Tk. 5,000 Noon still has Tk. 35,000 as loss from speculation business that will be carried forward for 6 successive years to be set off against gain from speculative business, if any. (2) Profit on sale of car is a personal income that is not taxable. It has been assumed that the car was used for personal purposes.

Illustration 18B – 4:

A, B and C are partners in a firm sharing profit & loss in the ratio of 2:2:1. The firm showed income of Tk. 200,000 as at 30-06-2017. Examination of the books of accounts of the firm revealed the following facts: (a) A, B, C were paid salary at Tk. 36,000, Tk. 45,000 and Tk. 48,000 respectively (b) A and C were paid interest at Tk. 40,000 and Tk. 50,000 respectively for the money borrowed from them (c) Commission on sale of goods paid to partner B Tk. 30,000 (d) Factory rent Tk. 1,50,000 paid to partner A (e) Office rent Tk. 60,000 paid to partner B (f) Penalty Tk. 55,000 paid for violation of customs law (g) Donation made to Aga Khan Foundation Tk. 50,000 (h) Advance tax paid Tk. 35,000 (i) Partners drawings were: A - Tk. 50,000; B - Tk. 45,000; C - Tk. 40,000.

Required: Compute total income of the firm and total income of each partner

(CMA Adapted)

Solution 18B – 4:

Total Income of the Firm A, B & C Partnership Assessment year: 2017 – 2018; Income year: 2016 – 2017		
	Taka	Taka
Net profit as per accounts		200,000
Add: Inadmissible expenses		
Salaries to Partners A: 36,000; B: 45,000; C: 48,000	129,000	
Interest on loan to Partners A: 40,000; C: 50,000	90,000	
Commission to B	30,000	
Penalty for violating Custom Law	55,000	
Advance Tax Paid	35,000	
Drawings of Partners A: 50,000; B: 45,000; C: 40,000	135,000	474,000
Taxable income of the firm		<u>674,000</u>

Requirement: Total Income of Each Partner:

Particulars	Partners			Total	Amount left to be Distributed
	A	B	C		
Amounts to be distributed					674,000
Salaries	36,000	45,000	48,000	129,000	545,000
Interest	40,000	-	50,000	90,000	455,000
Commission	-	30,000	-	30,000	425,000
Profit (on 2:2:1 ratio)	170,000	170,000	85,000	425,000	-
Total amount allocated	<u>246,000</u>	<u>245,000</u>	<u>183,000</u>	<u>674,000</u>	

Chapter - 18B: Assessment of Firms

Illustration 18B – 5:

M/s Skylark and Co. is a partnership firm. Mr. Tom, Mr. Toy and Mr. Dick are three equal shared partners of the firm. The firm filed return of income showing net profit at Tk. 1,550,000 for the assessment year 2017-2018. Examination of the books of accounts revealed the following facts: (a) Salary includes payment of Tk. 250,000 to Mr. Dick, Tk. 100,000 to Mr. Tom and Tk. 80,000 to Mr. Toy (b) Rent includes payments for office rent to Mr. Toy Tk. 120,000 and godown rent to Mr. Tom Tk. 60,000 (c) Misc expenses includes payments for Brokerage Tk. 30,000 to Dick; Tk. 36,000 paid to Mr. Kalu who is working as night guard at the residence of Mr. Toy; Tk. 24,000 paid as salary to Miss Keya who is working as maid servant at the residence of Dick; Tk. 90,000 paid to Tom for using his mechanized boat in the shipment of goods and Tk. 65,000 paid as interest for the amount of money borrowed from Toy. (d) The factory building of M/s Skylark was constructed by M/s Bay and Co. the firm paid Tk. 1,700,000 to M/s Bay & Co without deduction of any taxes. (e) During the year under consideration the firm imported spices and fruits. Tk. 120,000 was deducted as AIT by the custom authority at the import stage. No income from the import business was shown in the statements of accounts filed with the return. This is the 1st year of assessment. The firm paid no advance taxes as per provisions of sec-68.

From the above information compute the total income of the firm, total income of the partners, tax payable by the firm and simple interest if any payable.

Solution 18B – 5:

Total Income of the Firm M/s Skylark and Co. Assessment year 2017 – 2018; Income year 2016 – 2017			
	Taka	Taka	Taka
Net profit as per accounts			1,550,000
Add: Inadmissible expenses			
Salaries to Partners: Dick	250,000		
Tom	100,000		
Toy	<u>80,000</u>	430,000	
Interest on loan to Toy		65,000	
Brokerage to Dick		30,000	
Advance Tax Paid		120,000	
Drawings of Partners: Dick	24,000		
Toy	<u>36,000</u>	<u>60,000</u>	<u>705,000</u>
Taxable income of the firm			<u>2,255,000</u>

Requirement: Total Income of Each Partner:

	Partners			Total	Amount left
	Dick	Tom	Toy		
Amounts to be distributed					2,255,000
Salaries	250,000	100,000	80,000	430,000	1,825,000
Interest		-	65,000	65,000	1,760,000
Brokerage	30,000		-	30,000	1,730,000
Profit (on 1:1:1 ratio)	<u>576,666</u>	<u>576,667</u>	<u>576,667</u>	<u>1,730,000</u>	-
Total amount allocated	<u>856,666</u>	<u>676,667</u>	<u>721,667</u>	<u>2,255,000</u>	

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Requirement: Tax Payable by the Firm:

Income Slabs	Tax Rate	Tk.
On First Tk. 250,000	0%	Nil
On Next Tk. 400,000	10%	40,000
On Next Tk. 500,000	15%	75,000
On Next Tk. 600,000	20%	120,000
On Next Tk. 505,000	25%	126,250
On Total Tk. 2,255,000		361,250

Simple Interest: As per section 73, the firm has to pay interest on TK. 3,61,250 at the rate of 10% for a period starting from 1st July of 2016 to the date of regular assessment provided that it is not more than two years.

Illustration 18B – 6:

Rahim and Karim are the two equal partners of the firm 'R&K International' that reports income of Tk. 1,000,000 for the assessment year 2017-18. The income statement appears below:

Debit	Tk.	Credit	Tk.
Salaries	350,000	Balance b/d	1,185,000
Commission	80,000	Interest on securities (net)	60,000
Interest	30,000	Income from house property	300,000
Traveling Expense	25,000	Income from sale of tea	280,000
Legal Expense	50,000		
Office Expenses	60,000		
Promotional Expenses	30,000		
Bad Debt	30,000		
Miscellaneous Expenses	80,000		
Depreciation Expense	90,000		
Net Profit	1,000,000		
	<u>1,825,000</u>		<u>1,825,000</u>

A scrutiny of the accounts as submitted, the DCT revealed: (a) A sum of Tk. 15,000 was shown as traveling expense of Rahim for opening a new branch at Chittagong. (b) Mr Jaman, the general manager of the firm received TK. 16,000 of monthly salary without bank transfer or check, rather paid in cash. (c) Bad debt recovered of Tk. 60,000 was not shown in the credit side of the P/L A/C. The full amount of recovered bad debt was written off as unrecoverable and allowed. (d) Tk. 10,000 was paid for registering trade mark and Tk. 50,000 was paid for purchasing goodwill both of which are charged against current year's profit. (e) Accounting depreciation charged was Tk. 30,000 more than the tax depreciation. (f) The written down value of a motorcar was Tk. 60,000 that was sold for Tk. 50,000 and was not recorded in the books. (g) Legal expenses include Tk. 32,000 for penalty imposed by Custom Authority and miscellaneous expense includes Tk. 18,000 as a cost of forming contract among partners. (h) Rent of Tk. 50,000 given to Karim for using his house property as a place of business is included in office expenses. (i) Promotional expense includes Tk. 22,000 for constructing a permanent billboard for advertising the services provided by the firm. (j) Bad debt includes Tk. 20,000 given to the employees as advance that becomes irrecoverable. (k) Tk. 10,000 of interest on securities is from tax-free government securities. (l) The firm owns a tea garden where tealeaves are extracted and processed to make the tea leaves marketable. (m) Payment to partners as follows: Monthly Salary (paid without deducting taxes at

Chapter – 18B: Assessment of Firms

source) to Rahim Tk. 10,000; commission to Karim Tk. 60,000; interest on capital @ 10% Tk. 12,000 to Rahim and Tk. 10,000 to Karim; interest on loan @ 8% to Rahim Tk. 8,000. (n) Other income of the owners: Rahim - House Property Tk. 80,000; Import Business Tk. 60,000; Capital Loss Tk. 150,000; Agricultural Income Tk. 70,000 and Karim - Interest on less tax com. Securities Tk. 60,000; Loss from speculative business Tk. 80,000; Loss carried forward from previous year on speculative business Tk. 60,000 (o) Assume that the gross receipts of the firm were Taka 19,000,000 during the year. Compute the taxable income of the firm and partners along with the tax liability of both the firm and partners.

Solution 18B – 6:

Computation of Taxable Income of the Firm: Rahim and Karim International Assessment Year: 2017 – 2018; Income Year: 2016 – 2017

	Tk.	Tk.	Tk.
Net Profit as per accounts			1,000,000
Add: <u>Inadmissible Expenses:</u>			
Traveling Expenses		15,000	
Salary of GM (Tk. 16,000 * 12)		192,000	
Trademark		10,000	
Goodwill		50,000	
Charge of Excess Depreciation		30,000	
Legal Expense (penalty)		32,000	
Miscellaneous Expense (contract)		18,000	
Promotional Expense (billboard)		22,000	
Bad Debt (advance paid to employee)		20,000	
Salary to Rahim		120,000	
Commission to Karim		60,000	
Interest on Capital: Rahim Tk. 12,000; Karim Tk. 10,000		22,000	
Interest on Loan to Rahim		8,000	<u>599,000</u>
			1,599,000
Add: <u>Income not recorded:</u> Bad Debt Recovered			<u>60,000</u>
Less: <u>Admissible Expenses:</u>			1,659,000
Obsolescence Losses (TK. 60,000 – Tk. 50,000)			<u>10,000</u>
			1,649,000
Less: <u>Non-Business Income:</u> Interest on Securities		60,000	
Income from House Property		300,000	
Income from Sale of Tea (60%)		<u>168,000</u>	<u>528,000</u>
Business Income			1,121,000
Add: <u>Non – Business Income:</u>			
Interest on tax-free govt. securities (fully exempted)		-	
Interest on Commercial securities (50,000 × 5/4)	<u>52,632</u>	52,632	
Income from House Property	300,000		
Less: Repair and Maintenance (25%)	<u>75,000</u>	225,000	
Income from Sale of Tea (Agricultural Income)	168,000		
Less: Cost of Production (60%)	<u>100,800</u>	<u>67,200</u>	<u>344,832</u>
Total Taxable Income of the Firm			<u>1,465,832</u>

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Requirement: Allocation of Firm's income to the Partners

	Rahim	Karim	Total	Amount left to be distributed
Amounts to be distributed				1,465,832
Salaries	120,000	-	120,000	1,345,832
Commission		60,000	60,000	1,285,832
Interest on Capital	12,000	10,000	22,000	1,263,832
Interest on Loan	8,000	-	8,000	1,255,832
Profit (allocated on 1:1 ratio)	627,916	627,916	1,255,832	
Total amount allocated	767,916	697,916	1,465,832	

Requirement: Taxable Income in the Hands of Partners

	Rahim	Karim
1. Share of income from the Firm	767,916	697,916
2. Income from House Property (less: 25% for rep & mainten)	60,000	37,500
3. Import Business	60,000	
4. Agricultural Income (excluding 60% for cost of production)	28,000	
5. Interest on securities (grossed up assuming 20% TDS)		75,000
Total Taxable Income	915,196	810,416

Tax Liability of the Firm: On First Tk. 250,000 @ 0% Tk. Nil; On Next Tk. 400,000 @ 10% Tk. 40,000; On Next Tk. 500,000 @ 15% Tk. 75,000; and On Next Tk. 315,832 @ 20% Tk. 63,166. Therefore tax liability is Tk. 178,166 on total income of Tk. 1,465,832.

Minimum Tax: As the amount of gross receipt is given as Tk. 19,000,000 which exceeds Tk. 5,000,000; we need to compute the minimum tax requirement of the firm which is 0.60 % of Tk. 19,000,000 = Tk. 114,000. However, the tax liability of the firm will be Tk. 178,166 as this amount exceeds the minimum tax amount.

Tax Liability of the Partners

On First Tk.	250,000	250,000	@ 0%	Tk. Nil	Tk. Nil
On Next Tk.	400,000	400,000	@ 10%	40,000	40,000
On Next Tk.	265,196	160,416	@ 15%	39,779	24,062
On Total Tk.	915,196	810,416		79,779	64,062
Less: Tax rebate at average rate					
	Rahim: $(79,779 \div 915,196) \times 767,916$			66,940	
	Karim: $(64,062 \div 810,416) \times 697,916$				55,169
Net Tax Liability of the Partners				12,839	8,893

Notes:

- Capital nature expenditures like, traveling expenses for opening a new branch and billboard is inadmissible
- As monthly salary of GM is more than Tk. 15,000 and paid without check or bank transfer, this will not be an allowable expenditure
- Bad debt recovered is the income in current period as the amount was written off as bad debt in earlier period(s) which was allowed
- Payment for both trademark and goodwill are of capital nature, so inadmissible
- Obsolescence losses resulting from sale of motorcar would be an admissible expense

- (f) Legal expense of Tk. 32,000 incurred due to the penalty imposed by custom authority, so not an allowable expense
- (g) Misce. expense to the amount of Tk. 18,000 incurred due to forming partnership contract is capital in nature and not allowed
- (h) Rent paid to Karim is an allowable expense and for Karim it will be considered as income from house property
- (i) Bad debt amounting to Tk. 20,000 is not allowed, as this is the amount of advances paid to an employee that becomes irrecoverable
- (j) 60% of the income from sale of tea will be shown as agricultural income and 40% as business income
- (k) Tk. 10,000 of interest on tax free securities is fully exempted. Remaining Tk. 50,000 is grossed up assuming that TDS has been deducted @ 5%
- (l) 60% of the income from sale of tea is treated as agricultural income and 40% as income from business as the firm has run manufacturing process to make the tea marketable
- (m) Capital loss cannot be set off against profit from other sources rather should be carried forward for 6 successive years for set off against such income
- (n) Last year's loss from speculative business cannot be set off in the current year as there is no income from such head, rather such loss can be carried forward for 5 more successive years to be set off. And current year's loss from speculative business can be carried forward for 6 successive years for set off.

KEY POINTS

1. Partnership is the relationship among partners who run the business collectively to make and share profits.
2. A clear distinction is needed between partnership and partners whenever the question of assessment of a partnership firm comes. Because both partnership and partners are assessed separately for tax purposes.
3. A firm as an assessee can go for –
 - ❖ assessment on correct return (U/s - 82),
 - ❖ assessment after hearing (U/s- 83) or
 - ❖ best judgment assessment (U/s - 84).
4. Income from firm is tax free income because tax on this part is already paid by the firm, and partners will get rebate at average rate on such income from it.
5. In case of changes in constitution of a firm, the proportionate loss of a retired or deceased partner cannot be carried forward by the firm.
6. To compute partners' share in the firm's profit or loss, we need to adjust any interest, salary, commission or any other payment made to partners.
7. There may be a change in the composition (how many members a firm have) of a firm through admission or retirement of partner(s).
8. If a change has occurred in the constitution of the firm, the assessment of the firm shall be made in normal way as if there is no change in the constitution of the firm.
9. The words 'discontinued' and 'discontinuance' do not cover mere change of ownership or a change in the constitution of the firm, but refer to a complete cessation of business.
10. The Deputy Commissioner of Taxes should be notified regarding such discontinuance within fifteen days thereof; and such notice shall be accompanied by a return of total income in respect of the period between the end of the income year and the date of such discontinuance and that financial year will be the assessment year in respect of the income of the said period.

Multiple choice questions:

1. The applicable rate of rebate on investment allowance for a firm is -
 - (a) No Rebate in Allowed
 - (b) 15%
 - (c) 20%
 - (d) 25% *
2. Partner's taxable income doesn't include -
 - (a) Salary
 - (b) Interest
 - (c) Commission
 - (d) Rent to the owner other than partner
3. The partner will get rebate on the amount of total tax payable if his total taxable income includes a portion from the share of profit of the firm, on which the firm has already paid tax, at a rate -
 - (a) 0%
 - (b) 15%
 - (c) Average Rate
 - (d) 25%
4. To ensure equity and transparency, the share of income of a minor child, where husband wife and minor child are partners, should be assessed with -
 - (a) Husband
 - (b) Wife
 - (c) Both
 - (d) Whose taxable income is less
5. Which one of the following is not the requisite of succession? –
 - (a) The composition of the business should be in tact
 - (b) There should be a change of ownership;
 - (c) The integrity of the business should remain same;
 - (d) The identity and continuity of the business should be substantially preserved.
6. In case of succession otherwise than on death, the successor will be assessed upto which date? -
 - (a) Will not be assessed
 - (b) Upto the date of succession
 - (c) For the full year
 - (d) From the date of succession to the end of the respective year
7. In case of discontinuance, assessment may be made for the period –
 - (a) Upto the date of discontinuance
 - (b) For the full year
 - (c) No assessment
 - (d) From the end of the last assessed income year to the date of discontinuance
8. Within how many days, the event of discontinuance should be notified to DCT? –
 - (a) 10 Days
 - (b) 15 Days
 - (c) 20 Days
 - (d) A month

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9. Within how many days the DCT may serve a notice to the partner(s) to furnish a return of total income along with such other particulars, records and documents after being notified regarding the discontinuance of a firm? –
 - (a) Maximum 7 Days
 - (b) Maximum 15 Days
 - (c) Maximum 25 Days
 - (d) Maximum 30 Days
10. Integrity of the business is retained in which of the following situation? –
 - (a) If the business is split up
 - (b) If the nature of the business is changes
 - (a) If the liability and assets of the earlier business is not taken
 - (b) If there is substantial identity and similarity in the nature and extent of the activities

Identify the following statements as True (T) or False (F):

1. A partnership firm is a legal entity like a corporation
2. The income of a firm is taxed at the same rate as applicable to an individual.
3. Succession is the transfer by one trader to another of the business along with the goodwill, i. e., the right to that benefit which arises from connection and reputation.
4. Succession may take place without a valid transfer of ownership.
5. The successor cannot claim to carry forward and set off the losses incurred by his predecessor.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 18B – 1: Differentiate between partnership and partner.
- Question 18B – 2: State the procedure of assessment with respect to partners and partnership firm.
- Question 18B – 3: How the share of spouse or minor child in a partnership firm is assessed?
- Question 18B – 4: Mention the steps required to compute the share of partners' profit in a firm.
- Question 18B – 5: Is the firm responsible for unrecoverable portion of tax of a partner? If yes, to what extent?
- Question 18B – 6: In what situations, the composition of a firm may change?
- Question 18B – 7: What do you mean by succession? What are the requisites of succession?
- Question 18B – 8: Write short note on:
- (a) Partner
 - (b) Partnership
 - (c) Succession
 - (d) Discontinuance

Problem 18B – 1:

Mr. A, Mr. B and Mr. C are the three partners of ABC & Associates who shares profit and loss in a 2:2:1 ratio. The profit and loss account for the year ended on June 30, 2017 was given below:

Particulars	Tk.	Particulars	Tk.
Rent	25,000	Gross Profit	500,000
Utilities	20,000		

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Commissions	40,000	
Advertisements	15,000	
Miscellaneous Expenses	28,000	
Interest on Capital: A – 7,000; B – 7,000; C – 6,000	20,000	
Salaries: A – 24,000; C – 22,000	46,000	
Net Profit	3,06,000	
	<u>500,000</u>	<u>500,000</u>

Other Information: (1) Rent includes Tk. 15,000 paid to Mr. C who partially owns the business premises. (2) Tk. 12,000 of commission is given to Mr. B for his special assignment. (3) Miscellaneous expense includes a donation of Tk. 8,000. (4) Partners have income from different sources as: Income from House Property Tk. 50,000 and Tk. 60,000 for A and C respectively; Income from Interest on Securities Tk. 40,000, Tk. 70,000 and Tk. 80,000 for A, B and C respectively; Agricultural Income Tk. 50,000 for B; Income from other sources (Dividend) Tk. 28,000 and Tk. 15,000 for A and C respectively. Compute the taxable income and tax liability of the firm and the partners and also show the amount of distribution to the partners.

Problem 18B – 2:

P, Q & S are partners sharing profits and losses in the ration of 3:2:1. The particulars of income for the year ended 30th June 2017 are as under:

(a) House Properties: The firm owns a building consisting of two storeys of identical specification, partially used for the firm's business and partially for let out at a rent of Tk. 20,000 per month. The corporate valuation of the building is Tk. 300,000 on which corporation tax is paid @10%. The firm has also earned Tk. 50,000 p.a. by letting its premises to a retailer for running his temporary business.

(b) Business in Apparels: The trading accounting for the year was as under:

Debit	Taka	Credit	Taka
Opening Stock	700,000	Sales	4,000,000
Purchases	3,000,000	Closing Stock	900,000
Gross Profit	1,200,000		
	<u>4,900,000</u>		<u>4900,000</u>

Stocks are always valued at cost plus 2% basis. Analysis reveals that purchase amount is understated by Tk. 200,000 for the year. Total expenses charged during the period amounts to Tk. 450,000 which included among other things, following items: (a) Maintenance to Building: Let – out portion Tk. 10,000 and Portion used for business Tk. 10,000. (b) Municipal Taxes Tk. 25,000 (Municipal taxes for the year were Tk.. 30,000; tenant paid Tk.. 5,000.) (c) Annual contribution to Cotton Dealers Association, a trade association Tk. 10,000. (d) Contribution to Aga Khan Development Network Tk. 50,000. (e) Salaries to the partners: P Tk. 30,000; Q Tk. 40,000 and S Tk. 50,000. (e) Legal charges amount to a total of Tk. 50,000 where there was a fine of Tk. 10,000 charged due to its attachment with infringement of law. (f) Amount of bad debt Tk. 18,000 which is not allowed. (g) Loss on speculative transactions Tk. 50,000. (h) Accounting depreciation is Tk. 2,000 less than tax depreciation.

P had no other sources of income but Q and S were also partners in another firm. The shares of Q & S for the year ended 30th June 2017 were as under:

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Partners	Salary	Interest	Profit/ (Loss)	Total
Q	40,000	10,000	(50,000)	-
S	60,000	20,000	20,000	100,000

P has also income from a house property at London amounting to Tk. 500,000 (after deduction of 15% tax at source). S has other personal income of Tk. 40,000.

Required: Compute tax to be paid by the firm in which P, Q and S are partners and total taxable income in the hands of those partners from all sources. Also, State the principles governing the basis of taxability of total income of P, Q & S.

Problem 18B – 3:

A, B and C are partners in a firm sharing profit and loss in the ratio of 2:2:1. The firm showed income of Tk. 200,000 as at 30-06-2017. Examination of the books of accounts of the firm revealed: (1) A, B, C were paid salary at Tk. 36,000, Tk. 45,000 and Tk.48,000 respectively (2) A and C were paid interest at Tk. 40,000 and Tk. 50,000 respectively for the money borrowed from them (3) Commission on sale of goods paid to partner B Tk. 30,000 (4) Factory rent Tk. 150,000 paid to partner A (5) Office rent Tk. 60,000 paid to partner B (6) Penalty Tk. 55,000 paid for violation of customs law (7) Donation made to Aga Khan Foundation Tk. 50,000 (8) Advance tax paid Tk. 35,000 (9) Partners' drawings were: A – Tk. 50,000; B – Tk. 45,000 and C - Tk. 40,000

From the above information compute the total income of the firm and of each partner.

Problem 18B – 4:

Sun-Moon Enterprise is a firm comprising of two partners named Sun and Moon sharing profit and losses in a ratio of 2:1. During the year ended on June 30, 2017, the partners besides their shares in the firm enjoyed income and substantial losses from other sources: **Sun:** Income from House Property Tk. 80,000; Income accrued in India from partnership Tk. 70,000; share of loss from an Association of Persons Tk. 60,000 and Property tax paid Tk. 5,000. **Moon:** Capital gain Tk. 20,000; loss from Speculative business Tk. 60,000; profit on sale of residential house property Tk. 150,000; income from lottery Tk. 80,000 and Income tax refund Tk. 11,000. The profit and loss account of the firm for the year ended June 30, 2017 follows:

Expenditure	Taka	Income	Taka
Salaries: Staff	50,000	Gross profit b/d	415,000
Sun	25,000	Dividend	60,000
Moon	15,000	Interest on Securities	25,000
Office Contingencies	6,000		
Repairs to building	25,000		
Bad Debts	8,000		
Advance Income Tax	15,000		
Legal expenses	7,000		
Commission to Sun	10,000		
Life insurance premium: Sun	15,000		
Fire premium	18,000		
Commission to broker	8,000		
Depreciation	12,000		
Net Profit	286,000		
	<u>500,000</u>		<u>500,000</u>

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Other information: Included in repairs is Tk. 15,000 on account of cost of typewriter to be depreciated @ 10% p.a. as per taxation law; legal expenses are inclusive of TK. 5,000 being the fine imposed by Custom Authorities for infringement of law; office contingencies include TK. 2,000 spent as commission for investment in shares; depreciation admissible excluding on Typewriter is TK. 14,000; Interest earned is on less tax government securities; the policy value of life insurance policy purchased for Sun is TK. 100,000.

Required: Find out the taxable income of firm and taxes payable by it and complete the income taxable in the hands of partners and the tax liability of the partners

Problem 18B – 5:

M/s RJT and Co. is a partnership firm. Mr. Rony, Mr. Jony and Mr. Tony are three partners of the firm who shares profit and losses at a ratio of 5:4:3. The firm filed return of income showing net profit at Tk. 2,000,000 for the assessment year 2017-2018. Examination of the books of accounts revealed: (a) Salary includes payment of Tk. 150,000 to Mr. Rony, Tk. 120,000 to Mr. Jony and Tk. 70,000 to Mr. Tony. (b) Rent includes the payments for office rent to Mr. Tony Tk. 120,000 and godown rent to Mr. Rony Tk. 60,000. (c) Miscellaneous expenses includes payments for commission Tk. 20,000 to Rony; Tk. 36,000 paid to Mr. Bala who is working as caretaker at the residence of Mr. Tony; Tk. 24,000 paid as salary to Miss Bala who is working as maid servant at the residence of Jony; Tk. 90,000 paid to Jony for using his lorry in the shipment of goods and Tk. 65,000 paid as interest for the amount of money borrowed from Tony. (d) Partex Holding constructed the factory building of M/s RJT and the firm paid Tk. 1,500,000 to Partex Holding without deduction of any taxes. (e) During the year under consideration the firm imported sugar and Tk. 120,000 was deducted as AIT by the custom authority at the import stage. The sugar remains unsold during the year. This is the 1st year of assessment. The firm paid no advance taxes as per provisions of sec-68. From the above information compute the total income of the firm and of partners, tax payable by the firm and simple interest if any payable.

Problem 18B – 6:

Ram and Laxman are the two equal partners of the firm 'Ram and Laxman International' that reports income of Tk. 1,200,000 for the assessment year 2017-18 in their income statement:

Ram and Laxman International Income Statement For the year ended on June 30, 2017			
Debit	Tk.	Credit	Tk.
Salaries	250,000	Balance b/d	1,245,000
Commission	90,000	Interest on securities (net)	60,000
Interest	40,000	Income from house property	350,000
Traveling Expense	30,000	Income from sale of rubber	270,000
Legal Expense	50,000	Dividend Income	100,000
Office Expenses	60,000	Interest on Drawings (Ram)	5,000
Promotional Expenses	35,000	Gain on Sale of Motor Car	10,000
Bad Debt	40,000		
Miscellaneous Expenses	90,000		
Depreciation Expense	80,000		
Donation	75,000		
Net Profit	1,200,000		
	<u>2,040,000</u>		<u>2,040,000</u>

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A scrutiny of the accounts as submitted, the DCT revealed the followings facts:

- a) Tk. 12,000 was shown as traveling expense of Ram for opening a new branch at Sylhet.
- b) Mr Jaylal, the general manager of the firm received TK. 14,000 of monthly salary without bank transfer or check, rather paid in cash.
- c) Bad debt recovered of Tk. 40,000 was not shown in the credit side of the P/L A/C. Such recoverable amount was not written off earlier as it was disallowed by the authority.
- d) Tk. 10,000 was paid for registering trade mark and Tk. 50,000 was paid for purchasing goodwill both of which are charged against current year's profit.
- e) Accounting depreciation charged was Tk. 30,000 less than the tax depreciation.
- f) Data relating to motorcar that has been sold during the year was as follows:

Original Cost	: Tk. 80,000
Accumulated Depreciation (as per accounts)	: Tk. 60,000
Depreciation approved by tax authority to date	: Tk. 55,000
Sales Proceeds	: Tk. 30,000

- g) Legal expenses include Tk. 30,000 for penalty imposed by Custom Authority and miscellaneous expense includes Tk. 15,000 as a cost of forming contract among partners.
- h) Rent of Tk. 50,000 given to Laxman for using his house property as a place of business is included in office expenses.
- i) Promotional expense includes Tk. 20,000 for constructing a permanent billboard for advertising the services provided by the firm.
- j) Bad debt includes Tk. 20,000 given to the employees as advance that becomes irrecoverable. An embezzlement amount of Tk. 5,000, which was misappropriated by the cashier-cum-accountant, was also included in this item. Such embezzlement was incurred during the office hours.
- k) The firm owns a rubber garden where rubbers are extracted and processed to make it marketable.
- l) The firm has invested Tk. 250,000 for purchasing shares in IPO.
- m) Payment to partners as follows:

	Ram	Laxman
Monthly Salary (paid without deducting taxes at source)	10,000	-
Commission	-	60,000
Interest on Capital @ 10%	12,000	10,000
Interest on Loan @ 8%	8,000	-

- n) Other income of the owners:

Ram	Laxman
House Property Tk. 70,000; Income of Spouse Tk. 60,000; Win Lottery Tk. 150,000 and Agricultural Income Tk. 70,000	Interest on less tax com. Securities Tk. 60,000; Loss from speculative business Tk. 80,000; Foreign Income Tk. 60,000; Dividend Income Tk. 40,000.

- o) Ram has monthly DPS of Tk. 5,000 and Laxman has a life insurance policy with a policy value of Tk. 1,000,000, yearly premium amounts to Tk. 63,500.

Required: Compute the taxable income of the firm and partners along with the tax liability of both the firm and partners.

Answers:

Multiple choice questions		True/False
1. b	6. d	1. F
2. d	7. d	2. T
3. c	8. b	3. T
4. d	9. a	4. F
5. a	10. d	5. T

Self review 18B – 1:

Yes

Self review 18B – 2:

Rent will be an allowable expense for the firm but for the partner, it will be an income from house property.

Self review 18B – 3:

Both

CHAPTER – 18C

ASSESSMENT OF COMPANIES

● LEARNING OBJECTIVES ●

After studying Chapter 18C, you shall be able to understand:

- ⊕ The term 'Company' as per income tax ordinance
 - ⊕ Residential status of companies
 - ⊕ Return submission process of a company
 - ⊕ Withholding of taxes
 - ⊕ Advance payment of taxes
 - ⊕ Set off and carry forward of losses
 - ⊕ Fiscal incentives
 - ⊕ Assessment procedures with applicable tax rates
-

Assessment of companies is very important for the government of any country. Because, a significant portion of the revenue of government comes from the taxes that companies deposit to the government exchequer. Companies generate revenue from two sides. It pays tax on its income and also causes taxes by giving salaries and other taxable income to individuals and other persons. Thus, government is very careful in this regard and gives sufficient care towards the smooth functioning of companies. This chapter introduces the assessment procedure of companies irrespective of their nature.

18C.1 DEFINITION

Definitions of company are manifold. In IT Ordinance, 1984 it has a different focus and the scope has been extended significantly. Let us define companies from every angle here to make the discussion an exclusive one.

18C.1.1 Definition of 'Company' as per IT Ordinance, 1984: "Company" means a company as defined in the Companies Act, 1913 (VII of 1913) or Companies Act, 1994 and includes -

- (a) A body corporate established or constituted by or under any law for the time being in force;
- (b) Any nationalized banking or other financial institution, insurance body and industrial or business enterprise;
- (c) An association or combination of persons, called by whatever name, if any of such persons is a company as defined in the Companies Act, 1913 (VII of 1913) or Companies Act, 1994;
- (d) Any association or body incorporated by or under the laws of a country outside Bangladesh; and
- (e) any foreign association or body, not incorporated by or under any law, which the Board may, by general or special order, declare to be a company for the purposes of this Ordinance [U/s – 2(20)].

18C.1.2 Definition of 'Company' as per Companies Act, 1994: Thus, the definition as given in IT Ordinance, 1984 considers the definition of Companies Act, 1913 and 1994; and

extended it further to enlarge the scope. Companies Act 1994 defines 'Company' to mean a company formed and registered under the act or an existing company [U/s – 2(c) of Companies Act, 1994]. Again, 'existing company' means a company formed and registered under any law relating to companies in force at any time before the commencement of the act, and is in operation after commencement of the act [U/s – 2(h) of Companies Act, 1994].

18C.1.3 Public and Private Company as per Companies Act, 1994: The company act also classifies company as public and private. 'Private company' means a company which by its articles –

- (i) Restricts the right to transfer its shares, if any;
- (ii) Prohibits any invitation to the public to subscribe for its shares or debentures, if any;
- (iii) Limits the number of its members to fifty not including persons who are in its employment [U/s – 2(q) of Companies Act, 1994].

And 'public company' means a company incorporated under the Act or under any law at any time in force before the commencement of the act and which is not a private company [U/s – 2(r) of Companies Act, 1994].

18C.1.4 Bangladeshi and Foreign Company as per IT Ordinance, 1984: In terms of location, IT Ordinance again classifies companies as Bangladeshi and Foreign. 'Bangladeshi Company' means a company formed and registered under the Companies Act, 1913 (VII of 1913) or Companies Act, 1994 and includes a body corporate established or constituted by or under any law for the time being in force in Bangladesh having in either case its registered office in Bangladesh [U/s – 2(11)]. Whereas, 'foreign company' means a company which is not a Bangladeshi company [U/s – 2(33)].

18C.1.5 Banking Company as per IT Ordinance, 1984: IT Ordinance also defines 'Banking Company' that has the same meaning as in Bank Companies Act, 1991, and includes anybody corporate established or constituted by or under any law for the time being in force which transacts the business of banking in Bangladesh [U/s – 2(12)].

18C.1.6 Industrial Company as per Schedule 4 of Finance Act, 1998: The definition of industrial company comes through finance act. Industrial Company means a company which is engaged in:

- i) Production or processing of goods,
- ii) Production of plants, machineries and all types of parts & equipments,
- iii) Construction of ship or motor vehicles,
- iv) Investigation and collection/procurement of Gas, oil or any other mineral resources;

On condition that the income, profit or gain received from one or more sources stated as above should not be less than two-third of the total income of the income year.

18C. 2 RESIDENTIAL STATUS OF COMPANIES

As the application of different sections of IT Ordinance and even tax rate depends on the residential status of the assessee, it is very important to know the residential status of the assessee.

The prescriptions for deciding the residential status of companies are given below:

"Resident", in respect of any income year, means a Bangladeshi company or any other company the control and management of whose affairs is situated wholly in Bangladesh in that year [U/s – 2(55)(c)]. And, "non-resident" means a person who is not a resident [U/s – 2(42)]. Thus, to be resident;

1. The company should be a Bangladeshi company, i.e., formed and registered under the Companies Act, 1913 (VII of 1913) or Companies Act, 1994 and includes a body corporate established or constituted by or under any law for the time being in force in Bangladesh having in either case its registered office in Bangladesh; or
2. Any other company the control and management of whose affairs is situated wholly in Bangladesh in that year.

If any of the two conditions have not been fulfilled, the status of such a company will be non-resident.

18C.3 SUBMISSION OF RETURN

A company assessee shall have to furnish a return setting forth therein its total income by the 15th day of July each year or within 6 months from the end of the income year whichever is later. However, on application from the company, the DCT may extend the return filing period upto three months from the date so specified and he may further extend the date upto three months with the approval of Inspecting Joint Commissioner. The return should be signed by the principal officer as defined in section 2(48) of IT Ordinance [U/s – 75(3)(b)(iii)].

18C.4 SET OFF AND CARRY FORWARD OF LOSSES

Where loss is assessed in any head of income, the company is entitled to set off the loss against its income assessed in other heads of that year. However, loss on speculation business and loss on capital gain cannot be set off against income from any other head. If there is no income from other speculative business or capital gain from sale of other assets in the same year; such loss can be set off only against the income of respective speculative business or capital gains in the coming years, if any. When loss cannot be wholly set off, then the unabsorbed loss shall be carried forward but for not more than six successive assessment years. Unabsorbed depreciation loss can be carried forward for unlimited period. Loss so carried forward is to be set off against income of the respective head only. It is to be noted that loss from the source of exempted income cannot be set off against any source of taxable income.

18C.5 WITHHOLDING OF TAX

In Bangladesh, withholding of taxes is usually termed as tax deduction and collection at source. This system is considered as an important mechanism of tax collection. Under this system both private and public limited companies are legally authorized and bound to withhold taxes at some point of making payment which are clearly stated in the IT Ordinance and deposit the same to the Government Exchequer. The taxpayer receives a certificate from the withholding agent and gets credits of tax against assessed tax demand on production of the certificate. Finance Act 2011 introduces the submission of withholding tax return by inserting a new section (75A: Return of withholding tax). Every person, being a company, shall file a return of withholding tax collected or deducted with the Deputy Commissioner of Taxes where he is being assessed. The return shall be prepared in prescribed form and signed and verified by the principal officer. Such return shall be filed quarterly, by the fifteenth day of October, January, April and July of the financial year for which the tax is deducted or collected; and it must accompany a statement of deduction or collection of tax along with copy of treasury challans or payment orders. However, the last date for the submission of return may be extended by the Deputy Commissioner of Taxes up to fifteen days from the date so specified.

18C.6 ADVANCE PAYMENT OF TAX

Every company assessee shall pay advance tax in four equal installments falling on 15th Sept.; 15th Dec.; 15th March and 15th June of each financial year if the latest assessed income exceeds Tk. four

lakhs. On failure of payment of any installment, the company will be deemed to be an assessee in default. Penalty may be imposed for such default. If a company estimates that its income during any financial year will be less than the last assessed income, it may submit an estimate of income and pay the advance tax accordingly. If the amount of advance tax together with the tax deducted at source, if any, is less than 75% of the tax payable on the basis of regular assessment, interest @10% is leviable on the amount by which the tax so paid and deducted falls short of 75% of the assessed tax. On the other hand, the company is entitled to receive interest @10% on the amount by which the aggregate sum of advance tax paid during a financial year exceeds the amount of the tax payable on the basis of regular assessment.

SELF REVIEW 18C – 1

Last year's assessed income of Company X was Tk. 1,500,000. During current year, X paid advance tax of Tk. 120,000 and TDS of Tk. 32,000. However, tax liability of the company on the basis of regular assessment is Tk. 380,000. Compute amount of interest to be paid by the company, if any.

18C.7 FISCAL INCENTIVES

Following fiscal incentives are available for a company:

- a) Newly established industrial undertaking, tourist industry, and physical infrastructure facility set up between the periods of July 2008 to June 2019 will enjoy exemption from tax at a certain rate for a certain periods. It is to be noted that an expansion unit of an existing undertaking shall not enjoy this facility. Also this tax holding incentive shall not apply to an undertaking which makes any financial or commercial transaction in any manner with another industrial company having one or more sponsor shareholder common between them.
- b) Accelerated depreciation on cost of machinery is admissible for new industrial undertaking in the first three years of commercial production @ 50%, 30% and 20% respectively.
- c) Initial depreciation allowance for first year on machinery @25% of cost and in respect of factory building @10% of cost if the said factory or machinery is constructed or installed in Bangladesh after 30th June, 2002.
- d) Income from poultry is taxed at reduced rate as specified (on first Tk. 15 lac, nil; on next Tk. 15 lac, 5% and on balance, 10%).
- e) Any income from production of pelleted poultry feed, production of pelleted feed for fish, shrimp & cattle, production of seeds, marketing of locally produced seeds, cattle farming, dairy farming, frog farming, horticulture, Silk tree plantation, Bee keeping, Silk worm firming, mushroom farming, floriculture is taxable at a reduced tax rate as specified (on first Tk. 10 lac, 3%; on next Tk. 20 lac, 10% and on balance, 15%).
- f) Income derived from export of handicrafts for the period from the first day of July 2008 to the thirtieth day of June 2015.
- g) An amount equal to 50% of the income derived from export business is exempted from tax. This benefit is not applicable for companies registered outside Bangladesh.
- h) Listed companies are entitled to 10% tax rebate if they declare dividend at 20% or higher.
- i) Income derived from the business of computer data entry, data processing; call centers or computer software development for the period from the first day of July 2008 to the thirtieth day of June 2015.
- j) Income derived from any Small and Medium Enterprise (SME) engaged in production of any goods and having an annual turnover of not more Tk. 36 lakh.
- k) Income from agro-processing industry.

18C.8 APPLICABLE TAX RATES FOR COMPANIES

18C.8.1 Charge of additional tax (U/s – 16B): Where any person employs or allows, without prior approval of the Board of Investment or any competent authority of the Government, as the case may be, any individual not being a Bangladeshi citizen to work at his business or profession at any time during the income year, such person shall be charged additional tax at the rate of fifty percent (50%) of the tax payable on his income or taka five lakh, whichever is higher in addition to tax payable under this Ordinance.

18C.8.2 Charge of additional amount, etc. (U/s – 16BB): Where under the provisions of this Ordinance any interest, amount or any other sum, by whatever name called, is to be charged in addition to tax, it shall be charged, levied, paid and collected accordingly.

SELF REVIEW 18C – 2

Prescribe the tax effect of the given two companies considering: (a) ABC plc fails to declare dividend for the year within six months following the income year. (b) XYZ Banking Company reports net profit of Tk. 12,00,000 which is more than 50% of the aggregate sum of capital.

18C.8.3 Charge of minimum tax (U/s – 16BBB): Where under the provisions of this Ordinance any minimum tax is to be charged, it shall be charged, levied, paid and collected accordingly. The rule for minimum tax computation has been revised under Finance Act 2016. Minimum tax should be computed on the basis of source of income and types of tax payer. For such computation, the taxpayer should make a comparative calculation considering the provisions under section 82C.

Computing Tax U/S 82C (2): Any tax deducted or collected at source under the provisions of sections 52, 52A, 52AAA, 52B, 52C, 52D, 52JJ, 52N, 52O, 52R, 53, 53AA, 53B, 53BB, 53BBB, 53BBBB, 53C, 53CCC, 53DDD, 53EE, 53F, 53FF, 53G, 53GG, 53H, 53M, 53N and 55 shall be the minimum tax on income from the source or sources for which tax has been deducted or collected. However, the tax deducted or collected from the following sources shall not be the minimum tax:

Section	Source of Income
52	a. a contractor of an oil company or a sub-contractor to the contractor of an oil company b. an oil marketing company and its dealer or agent excluding petrol pump station; c. any company engaged in oil refinery; d. any company engaged in gas transmission or gas distribution;
53	import of goods by an industrial undertaking as raw materials for its own consumption;
53F	Persons receiving interest or share of profit on savings deposit, fixed deposit and term deposit

It is important to maintain the books of account in regular manner under the provisions of section 35 for the sources of income for which minimum tax is applicable. Income of these sources shall also be determined in regular manner and tax shall be calculated by using regular rate on such income. Then tax liability for these sources will be finalized as per the following rules:

- Amount of minimum tax as calculated before
- Amount of regular tax

*Whichever is higher
(between a and b)*

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However, income from the following sources shall be determined and tax shall be calculated in the manner as specified there.

Section	Sources
52C	compensation against acquisition of property
52D	interest on saving instruments
53DDD	export cash subsidy
53F(1)(c) and (2)	receiving interest or share of profit on particular bank account
53H	on transfer of property

Note: income or loss computed here shall not be set off with loss or income, respectively, computed for any regular source.

Example 1: Company X imports finished goods to sell in the local market on which TDS is imposed under section 53 at import stage. Should the company gross up the income to show total income? Should the company submit brief audited accounts in support of this transaction?

Ans.: Minimum tax under section 82C is applicable for import business as done by Company X. Thus the company should compute total tax and income under the provisions of section 82C. Showing total income through back-calculation of gross up is not permissible. At the same time, a complete set of accounts should be prepared under section 35 and audited for submission. There is no opportunity to submit brief audited account.

Example 2: Mr. Zaman runs a sole proprietorship business and sells imported cosmetic goods in local market. During the income year ended on June 30, 2017 Mr. Zaman imported cosmetics goods valuing Tk. 50,00,000 and paid taxes of Tk. 250,000 (5% of Tk. 50,00,000) at import stage. During the assessment year 2017-18, Mr. Zaman submitted return showing a total income of Tk. 20,00,000. On scrutiny of submitted accounts, the DCT doesn't find any disallowed expenses or any adjustments and thus accepted the amount of income. Based on his total taxable income, his regular tax liability will be:

On first	Tk. 250,000	@ 0%	Tk. 0
On next	400,000	10%	40,000
On next	500,000	15%	75,000
On next	600,000	20%	120,000
On balance	250,000	25%	62,500
Total	Tk. 20,00,000		Tk. 297,500

Under section 82C (2), tax liability of Mr. Zaman will be Tk. 297,500. As Mr. Zaman has already paid Tk. 250,000 he needs to pay Tk. 47,500 (Tk. 297,500 - Tk. 250,000) more to settle his tax liability for the year. Any surcharge or other charges if applicable for Mr. Zaman, it should be paid in addition.

Example 3: Mr. Zaman runs a sole proprietorship business and sells imported cosmetic goods in local market. During the income year ended on June 30, 2017 Mr. Zaman imported cosmetics goods valuing Tk. 50,00,000 and paid taxes of Tk. 250,000 (5% of Tk. 50,00,000) at import stage. During the assessment year 2017-18, Mr. Zaman submitted return showing a total income of Tk. 15,00,000. On scrutiny of submitted accounts, the DCT doesn't find any disallowed expenses or any adjustments and thus accepted the amount of income. Compute the tax liability of Mr. Zaman.

Ans.: Based on his total taxable income, his regular tax liability will be as follows:

On first	Tk. 250,000	@ 0%	Tk. 0
On next	400,000	10%	40,000
On next	500,000	15%	75,000
On balance	350,000	20%	70,000
Total	Tk. 15,00,000		Tk. 185,000

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Under section 82C (2), minimum tax liability of Mr. Zaman will be Tk. 250,000 (higher one between regular tax and tax deducted at source U/S 82C). As Mr. Zaman has already paid Tk. 250,000 he needs to pay nothing to settle his tax liability for the year, nor can he claim any refund. Any surcharge or other charges if applicable for Mr. Zaman, it should be paid in addition.

Example 4: During the income year ended on June 30, 2017 Mr. Kamal has reported following income:

- a. Tk. 300,000 as interest on 5 Year's Savings Certificate on which tax has been deducted at source @ 5% (Tk. 15,000) under section 52D.
- b. Tk. 600,000 as interest on bank account on which tax has been deducted at source @ 10% (Tk. 60,000).

Mr. Kamal doesn't report any other source of income or investment to claim tax rebate. Here, the tax implication of Mr. Kamal will be:

Total taxable income –	Income from Interest on Securities (U/S - 22)	
	Interest on 5 Year's Savings Certificate	Tk. 300,000
	Income from Other Sources (U/S - 33)	
	Interest on bank account	600,000
	Total Taxable Income	<u>Tk. 900,000</u>
Tax Liability –	On regular income (bank interest)	On first Tk. 250,000 @ 0% Tk. 0
		On next 350,000 10% 35,000
	Tax deducted on Savings Certificate	15,000
	Total Tax Liability (Regular + Minimum)	Tk. 50,000
	Total Tax Deducted at Source (Tk. 15,000 + Tk. 60,000)	75,000
	Refundable (paid more than minimum tax)	Tk. 25,000

Example 5: During the income year ended on June 30, 2017 Mr. Jamal has reported following income:

- a. Income from business Tk. 600,000. He has imported goods valuing Tk. 20,00,000 on which tax has been deducted at sources @ 5% (Tk. 100,000).
- b. Income from house property Tk. 400,000.

Mr. Jamal has decided to submit return on universal self assessment basis during the assessment year 2017 - 18. Tax implication of Mr. Kamal will be:

Tax liability on regular source of income (income from house property):	On first Tk. 250,000 @ 0% Tk. 0
	On next 150,000 10% 15,000
	Total Tk. 400,000 Tk. 15,000
Total Taxable Income	
Income from House Property (U/S – 24 & 25)	Tk. 400,000
Income from Business (U/S – 28, 29 & 30)	600,000
Total taxable income	Tk. 10,00,000
Regular tax on total Income:	On first Tk. 250,000 @ 0% Tk. 0
	On next 400,000 10% 40,000
	On balance 350,000 15% 52,500
	Total Tk. 1,00,000 Tk. 92,500
Minimum tax on import business (U/S – 82C):	
Total regular tax liability	Tk. 92,500
Tax imposed on regular source of income	15,000
Regular tax on import business	77,500
However, tax paid on import business at source	Tk. 100,000
Thus, minimum tax on import business U/S 82C is	Tk. 100,000

So, total tax liability of Mr. Jamal for the assessment year 2017-18 will be Tk. 115,000 (Tk. 15,000 + Tk. 100,000).

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Example 6: During the income year ended on June 30, 2017 Mr. Ali has reported following income:

- a. Income from business Tk. 800,000. He has imported goods valuing Tk. 20,00,000 on which tax has been deducted at sources @ 5% (Tk. 100,000).
- b. Income from house property Tk. 450,000.
- c. Income from interest on family savings certificate Tk. 400,000 on which tax has been deducted at sources @ 5%.

Mr. Ali has decided to submit return on universal self assessment basis during the assessment year 2017-18. Tax implication of Mr. Ali will be:

Tax liability on regular source of income (income from house property):				
On first	Tk.	250,000	@ 0%	Tk. 0
On next		200,000	10%	20,000
Total	Tk.	450,000		Tk. 20,000
Total Taxable Income				
Income from Interest on Securities (U/S – 22 & 23)	Tk.	400,000		
Income from House Property (U/S – 24 & 25)		450,000		
Income from Business (U/S – 28, 29 & 30)		800,000		
Total taxable income	Tk.	16,50,000		
Regular tax on total taxable income excluding interest on savings certificate:				
On first	Tk.	250,000	@ 0%	Tk. 0
On next		400,000	10%	40,000
On next		500,000	15%	75,000
On balance		100,000	20%	20,000
Total	Tk.	12,50,000		Tk. 135,000
Minimum tax on import business (U/S – 82C):				
Total regular tax liability	Tk.	135,000		
Tax imposed on regular source of income		20,000		
Regular tax on import business		115,000		
However, tax paid on import business at source	Tk.	100,000		
Thus, minimum tax on import business U/S 82C is	Tk.	115,000		

So, total tax liability of Mr. Ali for the assessment year 2017-18 will be Tk. 155,000 (Tk. 20,000 + Tk. 115,000 + Tk. 20,000). On interest on savings instrument, tax liability should be Tk. 20,000.

Computing Regular Tax Liability on Regular Sources of Income Applying Regular Tax Rate:

If the assessee has income from regular source in addition to the income from source or sources for which minimum tax is applicable, regular tax shall be calculated on the income from regular source. The tax liability of the assessee shall be the aggregate of the tax as determined under Section 82C(2) and the regular tax under Section 82C(3)(a)

For Firms and Companies:

For firm and company assessee, minimum tax should be computed applying the provisions as mentioned in Section 82C(4) which is applicable to –

- (a) every firm having gross receipts of more than taka fifty lakh
- (b) every company, irrespective of its profits or loss in an assessment year, for any reason whatsoever, including the sustaining of a loss, the setting off of a loss of earlier year or years or the claiming of allowances or deductions (including depreciation).

They shall be liable to pay minimum tax of an assessment year at the following rate:

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Classes of Assessee	Rate of Minimum Tax
Manufacturer of cigarette, bidi, chewing tobacco, smokeless tobacco or any other tobacco products	1.00% of the gross receipts
Mobile phone operator	0.75% of the gross receipts
Any other cases	0.60% of the gross receipts
Industrial undertaking manufacturing of goods for the first three income years since commencement of its commercial production.	0.10% of the gross receipts

Here gross receipts means -

- (i) all receipts derived from the sale of goods;
- (ii) all fees or charges for rendering services or giving benefits including commissions or discounts;
- (iii) all receipts derived from any heads of income.

However, where the assessee has an income from any source that is exempted from tax or is subject to a reduced tax rate, the gross receipts from such source or sources shall be shown separately, and the minimum tax shall be calculated in the following manner-

- (i) minimum tax for receipts from sources that are subject to regular tax rate shall be calculated by applying the rate as mentioned in above table;
- (ii) minimum tax for receipts from sources that enjoys tax exemption or reduced tax rate shall be calculated by applying the rate mentioned in above table as reduced in proportion to the exemption of tax or the reduction of rate of tax;
- (iii) minimum tax shall be the aggregate of the amounts calculated in (i) and (ii) above.

Finalize the Amount of Minimum Tax: Minimum tax as computed above for firms and companies should be compared with the amount of minimum tax computed before. The higher one between these two values will be the minimum tax for firms and companies.

Example 7: Gross receipt of Company Y, a private limited company, for the year ending on June 30 2017 is Tk. 50,00,000 with the following classification:

Gross receipt subject to TDS @ 15%	Tk. 40,00,000
Gross receipt from regular sources	10,00,000
Total gross receipts	Tk. 50,00,000

Compute the minimum tax of Company Y under section 82C(4).

Ans.: Minimum tax for Company Y will be as follows:

Gross receipt from regular sources	Tk. 10,00,000	@ 0.60%	Tk. 6,000
Gross receipt subject to TDS @ 15%	40,00,000	@ 0.60% × [15 ÷ 35]	10,286
Total minimum tax of Company Y			Tk. 16,286

Example 8: Company M, a Private Limited Company, has imported goods valuing Tk. 40,00,000 on which tax has been deducted at sources @ 5% (Tk. 200,000). The imported goods are sold for Tk. 75,00,000 during the income year ended on June 30 2017. Company M reports Tk. 800,000 profit during the year as per the audited account submitted with the NBR. On scrutiny, the DCT find no expenses disallowed and thus the account is accepted. Compute the minimum tax liability for Company M.

Ans.: Company M is subject to both 82C(2) and 82C(4) and thus, minimum tax will be computed as below:

Minimum Tax Under Section 82C(2):

Tax deducted at source	Tk. 200,000
Regular tax on regular sources at regular rate (35% of Tk. 800,000)	Tk. 280,000
Thus minimum tax U/S 82C(2) will be (whichever is higher)	Tk. 280,000

Minimum Tax Under Section 82C(4):

Gross receipt of the company	Tk. 75,00,000
Minimum tax rate on gross receipt	× 0.60%
Thus minimum tax U/S 82C(4) will be	Tk. 45,000

Thus minimum tax for Company M will be Tk. 280,000 under section 82C .

Points to be noted:

- Minimum tax shall not be refunded, nor shall be adjusted against refund due for earlier year or years or refund due for the assessment year from any source.
- Any surcharge, additional interest, additional amount etc. is payable, it shall be payable in addition to the minimum tax.
- Where the regular tax calculated for any assessment year is higher than the minimum tax, regular tax shall be payable then.

Example 9: Consider the information given in Example 6. In addition to the information provided in that example, assume that Mr. Ali reports a total net wealth of Tk. 3 crore during the income year. What will be the implication of net worth on his tax liability?

Ans.: In addition to the minimum tax computed in Example 6, Mr. Ali is also subject to surcharge @ 10% on tax payable. Thus his total tax liability will be as follows:

Tax liability as computed in Example 6	Tk. 155,000
Surcharge @ 10%	Tk. 15,500
Total tax liability	Tk. 170,500

Example 10: Gross receipt of Company P, a private limited company operating in Dhaka, is Tk. 80,00,000 during the income year ended on June 30 2017. The company has reported Tk. 200,000 as profit in submitted accounts with the NBR.

The DCT doesn't find any expenses inadmissible under section 30 and the DCT concludes that the company has complied with all the rules in every respect. Compute the amount of minimum tax of Company P for the assessment year 2017-18.

Ans.: Tax liability of Company P will be as follows:

Regular tax	
(35% of Tk. 200,000)	Tk. 70,000
Minimum tax	
(0.60% of Tk. 80,00,000)	Tk. 48,000
Thus the tax liability of Company P will be	Tk. 70,000

CORPORATE TAX RATES AT A GLANCE

Types of Company	Types of Income		Tax rates for AY	
			2016-17	2017-18
Bank, Insurance, Financial Institutions	Capital gain arising out of	⇒ Transfer of stocks and shares of any company registered under Companies Act, 1994. [SRO No. – 269-Law/Income Tax/2010]	10%	10%
		⇒ Transfer of other capital assets	15%	15%
	Dividend income	Dividend declared by any company registered under companies act 1913 or 1994 or any foreign company	20%	20%
	Other income	For publicly traded company	40%	40%
		For not publicly traded company	42.5%	42.5%
Merchant Bank	Taxable Income	Approved in 2013	40%	40%
	Taxable Income	Both for publicly and not publicly traded company	37.5%	37.5%
Mobile Phone Operator Company	Taxable Income	Private Limited Company	45%	45%
	Taxable Income	If converted into public limited company by issuing minimum 10% of shares through IPO[However, if such company transfers 20% of shares through IPO, it will enjoy 10% tax rebate on tax payable for the respective income year]	40%	40%
Cigarette Manufacturing Company	Taxable Income	Private Limited Company	45%	45%
	Taxable Income	Publicly Traded Company	45%	45%
Other Company	Capital gain arising out of	Transfer of stocks and shares of any company registered under Companies Act, 1994. [SRO No. – 269-Law/Income Tax/2010]	10%	10%
		Transfer of other capital assets	15%	15%
	Dividend income	Dividend declared by any company registered under companies act 1913 or 1994 or any foreign company	20%	20%
	Other income	⇒ For publicly traded company:	25%	25%
		If a private limited company transfers at least 20% of its share through IPO and become public, such company will enjoy 10% tax rebate on tax payable during the year		

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Other Company	Other income	Non-publicly traded company, local authority and private limited company and other companies as per sec 2(20).	35%	35%
Others	Other income	Income from Cigarette business by Cigarette Manufacturer other than company	45%	45%
Others	Other income	Co-operative Societies, registered under the Co-operative Societies Act, 2001	15%	15%

18C.9 TAX REBATE

If any publicly traded company other than bank, insurance, financial institutions declare dividends at the rate of more than 20%, it will enjoy 10% of tax rebate on applicable tax. And, if any company engaged in the production of goods and registered under the companies act 1994, it will enjoy tax rebate at a rate as mentioned below:

	Rate of Rebate
(a) If production in volume exceeds 15% but does not exceed 25% as compared with preceding year.	2.5% of tax on such income
(b) If production in volume exceeds 25% as compared with preceding year.	5% of tax on such income
(c) If total income includes income received from life assurance business.	12.5% on such income
(d) On the amount of dividend received from a company registered in Bangladesh under the companies act in force of a body corporate formed in pursuance of an act of parliament.	15% on such dividend income
(e) On the amount spent to perform specified CSR activities [Ref: SRO 223-AIN/IT/2012 dated 27.06.2012 explained in Ch-5]	10% of such expenditure

18C.10 CORPORATE SOCIAL RESPONSIBILITY [SRO 229-AIN/IT/2011 DATED 04-07-2011 later updated by SRO 223-AIN/IT/2012 dated 27.06.2012]

- ❖ **Allowable limit:** Maximum limit of allowable expenditure under the head Corporate Social Responsibility (CSR) is 20% of total income or Tk. 8,00,00,000; whichever is lower. If actual expenditure exceeds this limit, such amount exceeding the limit cannot be used to compute tax rebate.
- ❖ **Tax Rebate:** Tax rebate will be computed @ 10% on such expenditure for CSR within the maximum limit.
- ❖ **Conditions:** To claim tax rebate against CSR, the corporate must fulfill the following conditions:
 1. Must pay salaries and allowances to its worker regularly and must have waste treatment plant if it involves with the production of industrial goods;
 2. Must pay income tax, VAT and duty timely and must repay institutional loans;
 3. Can only donate money to the institutions recognized by the government for the purpose of CSR;
 4. Must fulfill all rules as per Bangladesh Labor Act, 2006.

However, no company can charge such expenditure expensed as a result of CSR in manufacturing or profit and loss account. Such company shall also submit sufficient documents with DCT to prove whether the expenditure claimed as CSR is really spent.

❖ **Areas of CSR:** 10% rebate is allowed to the corporate organizations on their corporate social responsibility related expenditures subject to the fulfillment of some prescribed conditions. The scope areas of the corporate social responsibility (CSR) to avail this rebate are as follows if any contribution is made to any organization engaged in: (SRO 229-AIN/IT/2011 dated 04.07.2011 later updated by SRO 223-AIN/IT/2012 dated 27.06.2012 & SRO 186-AIN/IT/2014 dated 01.07.2014):

1. Donation through any government bodies to the people of areas affected by natural calamities like Cyclone, Earthquake, Hurricane, Flood etc.
2. Old home foundation and management,
3. Welfare of mentally or physically disable people,
4. Educational institution for street / homeless children,
5. building houses for people living in slums,
6. Donation to social organizations involved in building public awareness about women-right and dowry system,
7. Donation to organizations involved in the welfare of orphan / homeless children,
8. Donation to organizations involved in research about liberation war, campaign to uphold the spirit of liberation war and welfare of freedom fighters,
9. Improving sewerage facilities in Chittagong hilltract, alluvial land, river breakage areas.
10. Donation to organizations provide treatment of hare-lipped, cataract; cancer, leprosy.
11. Donation to organizations serving treatment to the Acid Victims,
12. Specialized hospital established for serving the poor people free medical facilities and improving the quality e.g. Cancer, Lever, Kidney, Thalasemia, Eye and Cardio.
13. Donation to public universities;
14. Donation for promoting technical and vocational education for poor meritorious students through any government approved educational institution;
15. Donation to government or MPO included Private educational institution to establish lab and arrange training for IT, Computer and English education;
16. Donation to the organizations engaged in promoting technical and vocational education for unskilled or semi-skilled workers for manpower export;
17. Donation to organizations engaged in infrastructure development and training for national sports level.
18. Donation to built or under constructed national level museums established in the memory of the liberation war.
19. Donation to non-profitable organizations established for treatment, increasing awareness and rehabilitation of HIV, AIDS or intoxication affected people.
20. Donation to any national level institution set up in memory of Father of the Nation;

21. Donation to the non-profitable private organizations established for the welfare of women and children saved from human trafficking.
22. Donation to government approved fund established for any unique disaster/catastrophe or arranging any tournament or national event.

18C.11 TRANSFER PRICING

Transfer pricing is a newly inserted chapter (Chapter XIA) in Income Tax Ordinance 1984 through Finance Act 2012. This chapter addresses the impact of international transactions made by associated enterprises on disclosed net income and taxes as well. Finance Act 2014 inserted a new section (Sec 107EE) and brings effectiveness of the application of this chapter. The section requires that 'every person who has entered into an international transaction shall furnish, along with the return of income, a statement of international transactions in the form and manner as may be prescribed'. It also prescribes the mode of computing transfer prices in a specified method of 'arm's length price'. Arm's length price means a price in a transaction, the conditions (e.g. price, margin or profit split) which do not differ from the conditions that would have prevailed in a comparable uncontrolled transaction between independent entities carried out under comparable circumstances [U/S 107A1(1)]. The arm's length price in relation to an international transaction shall be determined by applying the most appropriate method(s) selected from the following methods based on the nature of transaction, the availability of reliable information, functions performed, assets employed, risks assumed or such other factors as may be prescribed, namely:

- (a) comparable uncontrolled price method;
- (b) resale price method;
- (c) cost plus method;
- (d) profit split method;
- (e) transactional net margin method;
- (f) any other method where it can be demonstrated that-
 - (i) none of the methods mentioned in (a) to (e) can be reasonably applied to determine the arm's length price for the international transaction; and
 - (ii) such other method yields a result consistent with the arm's length price.

18C.11.1 Comparable Uncontrolled Price Method: Under this method, the price charged or paid for property transferred or services provided in an uncontrolled transaction or a number of transactions of comparable circumstances is identified. The differential amount is calculated if the identified price differs from the price of the international transaction. The differential is then adjusted with the price of international transaction which is taken to be the arm's length price of the property transferred or services rendered in the international transaction.

Example: ABC plc charged Tk. 500,000 to XYZ plc, an associated enterprise, in an international transaction of transferring inventory. However, the price in comparable circumstances is identified to be Tk. 650,000. Thus, the differential amount is Tk. 150,000 which is adjusted with the price of international transaction. And the arm's length price will be Tk. 650,000 (Tk. 500,000 + Tk. 150,000).

18C.11.2 Resale Price Method: Under this method, the price at which the transferred property or service could be resold to an independent enterprise is identified. Then, the price is reduced by a comparable normal gross margin. The price so arrived at is then adjusted for other unique costs (such as customs duty) associated with the purchase of the property or services. The price so arrived at is then adjusted to take into account the

material differences (differences that could materially affect the gross margin in open market condition) such as functions performed, risks involved, assets employed, time gap between the original purchase and the resale and accounting practices between the international transactions and the comparable uncontrolled transactions, or between the enterprises undertaking such transactions. The adjusted price so computed shall be taken to be the arm's length price of the property purchased or the service obtained in the international transaction.

Example: ABC plc transferred inventory to XYZ plc, an associated enterprise, in an international transaction that may be resold to an independent enterprise for Tk. 500,000. A comparable gross margin rate is reached to be 15% of sale. Associated customs and supplementary duty was Tk. 80,000. No other situation related to the transaction is identified that could create material differences in gross margin in open market condition. Here, the arm's length price should be Tk. 345,000 (Tk. 500,000 – 15% of Tk. 500,000 – Tk. 80,000).

18C.11.3 Cost plus Method: Under this method, the direct and indirect costs incurred in the supply of property or the provisions of services are determined along with a comparable profit mark-up (based on comparable accounting policies). Appropriate adjustment is then made to the comparable profit mark-up adjusted to take into account the material differences (differences that could materially affect the mark-up in open market condition) such as functions performed, risks involved, assets employed, contractual terms and market conditions between the international transactions and the comparable uncontrolled transactions, or between the enterprises undertaking such transactions. The adjusted profit mark-up is then added to the cost and the sum so arrived at is taken to be the arm's length price of the property transferred or services provided in the international transaction.

Example: ABC plc transferred inventory to XYZ plc, an associated enterprise, in an international transaction. The direct and indirect cost incurred in the supply of inventory is identified to be Tk. 300,000. Comparable mark-up (profit on cost) is 20%. However, due to foreign currency fluctuation and risk associated with the transaction, the mark-up should go up by 8%. Thus the arm's length price should be Tk. 384,000 [Tk. 300,000 × 28% (20% + 8%)].

18C.11.4 Profit Split Method: Under this method, the combined profit, arising from international transaction or transactions and divisible among the associated enterprises, is identified. The combined profit is then divided among the associated enterprises by using the following approaches:

- a. Each of the associated enterprises is allocated a basic return based on the basic functions (manufacturing, distribution, service provision etc.) each enterprise performed and determined by reference to market returns earned by independent enterprise in similar transaction. This basic return does not usually account for the return that would be generated by any unique and valuable assets possessed by the associated enterprises. The residual profit (which may be attributable to such unique assets), calculated by deducting the sum of basic returns allocated to associated enterprises from the combined profit, is then apportioned to the associated enterprise based on their relative contribution and taking into consideration how independent enterprises in similar circumstances would have divided such residual profit; or

- b. Basic return is not allocated to the associated enterprises; the combined profit is divided among the associated enterprises based on the relative contribution of each the associated enterprises to that profit.

The profit thus allocated to the assessee is taken to be the arm's length price.

18C.11.5 Transactional Net Margin Method: Under this method, the net profit margin earned by the associated enterprise from the international transaction with the associated enterprise is computed having regard to an appropriate base such as costs, sales or assets. The net profit margin earned by an independent enterprise or enterprises from comparable uncontrolled transaction or a number of such transactions is computed having regard to the same base. Appropriate adjustment is then made to the net profit margin to take into account the differences that can materially affect the net profit margin, between the international transactions and the comparable uncontrolled transactions, or between the enterprises undertaking such transactions. The adjusted net profit margin is then applied to the base to arrive at the arm's length price in relation to the international transaction.

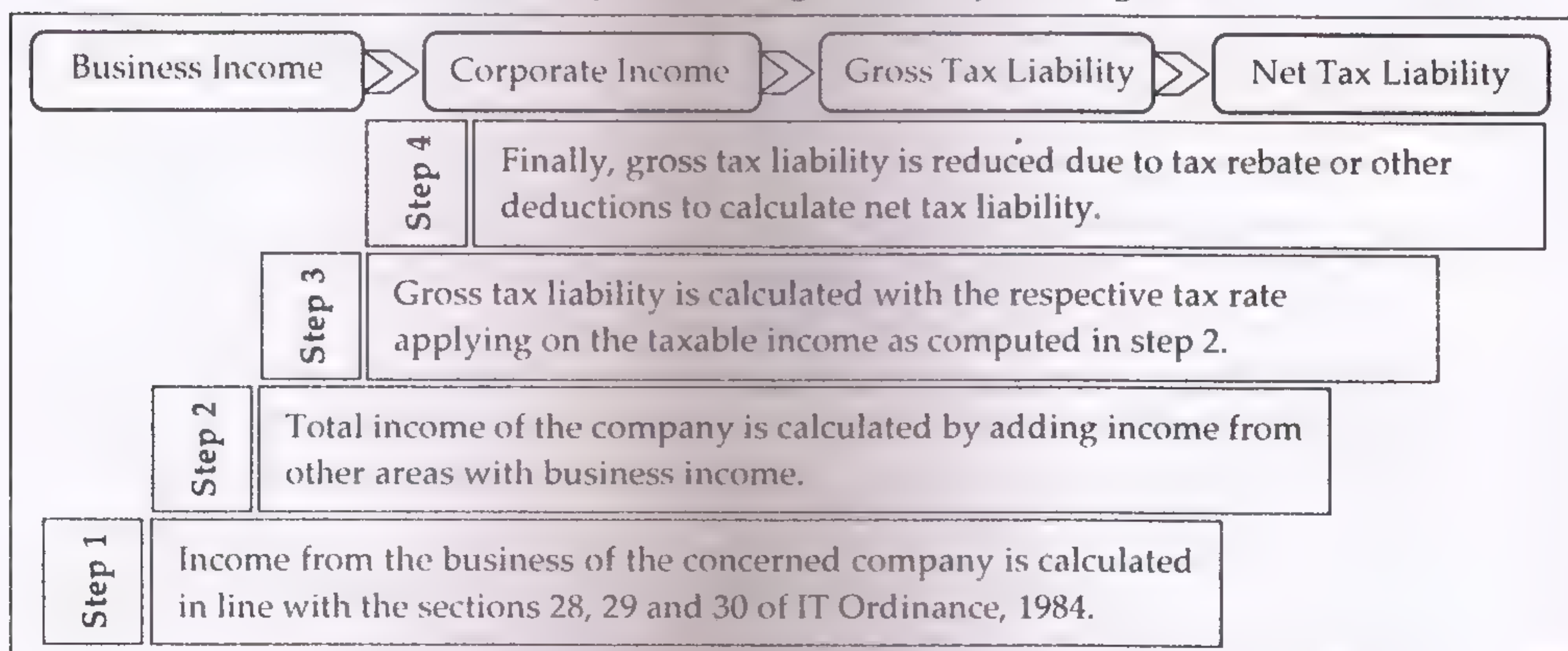
The most appropriate method for determining the arm's length price of an international transaction shall be the method that provides the most reliable measure of an arm's length price in relation to the international transaction. In this regard, the following factors shall be considered,

- (a) the nature and class of the transaction, and of enterprises entering into the transaction;
- (b) the comparability factors (industry, functions, risks, contractual terms, market level) that are materially significant in determining the price or margin in relation to the transaction;
- (c) the quality (availability, coverage, validity and reliability) of relevant data;
- (d) the reliability of assumptions in the method;
- (e) the sensitivity of results in the deficiency in data and assumptions;
- (f) the extent to which the reliable and accurate adjustments can be made to eliminate the differences, if any, between the international transaction and the comparable uncontrolled transaction or between the enterprises entering into such transactions.

18C.12 ASSESSMENT PROCEDURE:

Company assessment starts with calculation of business profit similar to computing income from business or profession. Such income is adjusted for the assessee being a company resulting taxable income. Then tax liability is calculated after all adjustments in this regard.

The assessment procedure is given in the following chart.



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SPECIMEN FORMAT FOR THE ASSESSMENT OF COMPANIES

	<u>Taka</u>	<u>Taka</u>
1. Income from Business or Profession:		
Net Profit as per Profit and Loss Account		XX
Add: Inadmissible Expenses		
a) Bad Debt	XX	
b) Accounting Depreciation	XX	
c) Income Tax	XX	
d) Other Inadmissible Expenses	XX	XX
		<u>XX</u>
Less: Expenses Admissible but not Shown		
a) Depreciation as per IT Rules	XX	
b) Other Admissible Expenses	XX	XX
		<u>XX</u>
Less: Income received from Non-Business Heads		
a) Dividend	XX	
b) Interest	XX	
c) Capital Gains, etc.	XX	XX
2. Total Taxable Income		<u>XX</u>
3. Calculation of Tax Liability		
a) On total taxable income at flat rate	XX	
b) On dividend income @ 20%	XX	
c) On capital gain @ 10% or 15%	XX	XX
Less: Tax Rebate		XX
4. Net Tax Liability		<u>XX</u>

Illustration 18C – 1:

The profit and loss account of ABC & Co is given below for the assessment year 2017-18.

ABC & Co			
Profit and Loss Account			
Dr.	For the year ended on June 30, 2017		Cr.
Cost of Goods Sold	1,500,000	Sales	3,500,000
Salaries	700,000	Dividend	120,000
Rent	150,000	Interest	30,000
Advertisements	200,000	Gain on sale of Asset	40,000
Interest on Loan	80,000	Interest on zero coupon bond	15,000
Utility Expenses	60,000	Interest on Foreign Investment	20,000
Donation	150,000		
Transportation	110,000		
Audit Fee	200,000		
Bad Debt	90,000		
Contribution to RPF	70,000		
Income Tax paid in Advance	30,000		
Fines paid to Customs	20,000		
Annual Membership	15,000		
Legal Expenses	25,000		

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Insurance Premium	35,000	
Sundry Expenses	12,000	
Depreciation	65,000	
Net Profit	213,000	
Total	<u>3,725,000</u>	<u>3,725,000</u>

Determine the taxable income of the company and net tax liability thereof. Consider the given data below and assume that ABC & Co is a public limited company: Salaries paid in cash without any check or bank transfer. Taka 450,000 of salaries from taka 700,000 falls under the category of gross salary more than taka 15,000; tax depreciation amounts to taka 50,000; legal expenses are paid due to the infringement of trademark and the company has sold an asset for taka 100,000 that the company has purchased 4 years back at a cost of taka 80,000 with a written down value of taka 60,000 to date.

Solution 18C – 1:

ABC & Co		
Status: Resident Company		
Income Year: 2016-17; Assessment Year: 2017-18		
	<u>Taka</u>	<u>Taka</u>
Income from Business or Profession:		
Net Profit as per Profit and Loss Account		213,000
Add: Inadmissible Expenses		
Salaries	450,000	
Legal Expenses	25,000	
Income tax paid in advance	30,000	
Fines paid to customs	20,000	
Depreciation	65,000	
Donation	150,000	
		<u>740,000</u>
		953,000
Less: Expenses Admissible but not Shown		
Depreciation		50,000
		<u>903,000</u>
Less: Income received from Non-Business Heads		
Dividend	120,000	
Interest	30,000	
Gain on sale of Asset	40,000	
Interest on zero coupon bond	15,000	
Interest on Foreign Investment	20,000	
		<u>225,000</u>
		678,000
Add: Revenue profit on sale of asset		20,000
Taxable income from Business		<u>698,000</u>
Non-Business Income:		
Dividend	120,000	
Capital Gain on sale of Asset	20,000	
Interest on Foreign Investment	20,000	
		<u>160,000</u>
Total Income		<u>858,000</u>

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Computation of Tax Liability:

On total income excluding Capital Gain & Dividend		
25 % of taka 718,000 (858,000 – 140,000)	taka	179,500
On Capital Gain (15% of taka 20,000)		3,000
On Dividend Income (20% of taka 120,000)		<u>24,000</u>
Gross Tax Liability		206,500
Advance Payment of Tax		<u>30,000</u>
Net Tax Payable		<u>176,500</u>

Minimum Tax

Turnover	3,500,000	Minimum Tax @ 0.60% is Tk. 21,960. As actual tax liability becomes more than minimum tax, company is required to pay the total amount of net tax payable as computed above (U/S 82C).
Income from 'Capital Gain'	20,000	
Income from Other Sources	140,000	
Total Gross Receipt	3,660,000	

Notes: (1) It is assumed that donation is paid to unrecognized institution. **(2)** Sale Proceed of the asset taka 100,000 whereas, Written Down Value Tk. 60,000; so, Gain on Sale Tk. 40,000. Out of which, Capital gain is Tk. 20,000 [sales proceeds less initial cost of the asset] and the rest Tk. 20,000 is revenue gain. **(3)** Interest on zero coupon bond is exempted from tax.

Illustration 18C – 2:

The financial statement extract for ABC & Co for the income year ended on June 30, 2017 is given below:

ABC & Co			
Trading, Profit & Loss and Profit & Loss Appropriation Account			
Dr.			Cr.
Beginning Inventory	Tk. 150,000	Sales	Tk. 8,000,000
Purchase	4,500,000	Ending Inventory	500,000
Wages	500,000		
Fuel, Power and Gas	350,000		
Gross Profit	<u>3,000,000</u>		
	<u>8,500,000</u>		<u>8,500,000</u>
Salary	1,200,000	Gross Profit brought down	3,000,000
Repairs	210,000	Share Premium	400,000
Addition to Building	450,000	Recovery of Bad Debt	25,000
Interest on Debenture	50,000	Refund of Income Tax	15,000
Legal Expenses	20,000	Dividend	60,000
Audit Fee	45,000	Gain on Sale of Asset	40,000
Income Tax	40,000	Interest on Tax Exempt	
Provision for Bad & Doubtful Debt	25,000	Govt. Securities	22,000
Donation	25,000		
Loss on Sale of Investment	15,000		
Loss of Stock due to Fire	120,000		
Penalty	25,000		
Depreciation	80,000		
Net Profit	<u>1,257,000</u>		
	<u>3,562,000</u>		<u>3,562,000</u>

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Commission to Managing Agent	82,000	Net Profit brought down	1,257,000
Bonuses to Shareholders	218,000		
Provision for Taxation	40,000		
Dividends	80,000		
Balance	837,000		
	<u>1,257,000</u>		<u>1,257,000</u>

Determine the taxable income of the company and net tax liability thereof. Assume that ABC & Co is a public limited company and their tax depreciation amounts to taka 100,000; provision for bad & doubtful debt allowed to the extent of taka 10,000 and the company has sold an asset for taka 100,000 that the company has purchased 4 years back at a cost of taka 80,000 with a written down value of taka 60,000 to date.

Solution 18C – 2:

ABC & Co Status: Resident Company Income Year: 2016-17 Assessment Year: 2017-18		
	<u>Taka</u>	<u>Taka</u>
Income from Business or Profession:		
Net Profit as per Profit and Loss Account		1,257,000
Add: Inadmissible Expenses		
Depreciation	80,000	
Provision for Bad & Doubtful Debt	25,000	
Income tax	40,000	
Legal Expenses	20,000	
Loss on sale of Investment	15,000	
Donation	25,000	
Penalty	25,000	
Addition to Building	450,000	680,000
		<u>1,937,000</u>
Less: Expenses Admissible but not Shown		
Depreciation	100,000	
Provision for Bad and Doubtful Debt	10,000	110,000
		<u>1,827,000</u>
Less: Income received from Non-Business Heads		
Dividend	60,000	
Share Premium	400,000	
Gain on sale of Asset	40,000	
Interest on Tax Exempt Govt. Securities	22,000	522,000
		<u>1,305,000</u>
Add: Revenue profit on sale of asset		20,000
Taxable income from Business		<u>1,325,000</u>
Non-Business Income:		
Dividend	60,000	
Capital Gain on sale of Asset	20,000	80,000
Total Income		<u><u>1,405,000</u></u>

Computation of Tax Liability:

Tax on total income excluding dividend and capital gain (25% of Tk. 1,325,000)	Tk.	331,250
Tax on dividend (20% of taka 60,000)		12,000
Tax on Capital Gain (15% of taka 20,000)		<u>3,000</u>
Gross Tax Liability		346,250
Less: Tax Rebate @ 10%		<u>37,938</u>
Net Tax Liability		<u>308,312</u>

Minimum Tax

Turnover	8,000,000	Minimum Tax @ 0.60% is Tk. 48,480.
Income from 'Capital Gain'	20,000	As actual tax liability becomes more than minimum
Income from Other Sources	60,000	tax, company is required to pay the total amount of
Total Gross Receipt	8,080,000	net tax payable as computed above (U/S 82C).

Notes: (1) Dividend declared is assumed to be more than 20% and thus rebate is claimed @ 10%. (2) Sale Proceed of the asset taka 100,000; Written Down Value Tk. 60,000; so, Gain on Sale Tk. 40,000; out of which capital gain is Tk. 20,000 [sale proceeds less initial cost of the asset] and rest Tk. 20,000 is revenue gain.

Illustration 18C – 3:

The income statement for the year ended June 30, 2017 of Jonesville Inc. is given below:

Jonesville Inc. Income Statement			
Dr.	For the year ended June 30, 2017		Cr.
Salaries	450,000	Gross Profit	1,535,000
Office Rent	110,000	Dividend	60,000
Commission	50,000	Share Transfer Fee	40,000
Advertisements	120,000	Unclaimed Dividend	35,000
Donation	80,000	Gain on Sale of Furniture	25,000
Interest on Loan	60,000		
Bad Debt	35,000		
Trademark	25,000		
Fine and Penalty	30,000		
Audit Fee	60,000		
Legal Expenses	40,000		
Loss on Embezzlement	30,000		
Income Tax	25,000		
Share Discount	70,000		
Dividend Equalization Fund	40,000		
Depreciation	70,000		
Net Profit	400,000		
	<u>1,695,000</u>		<u>1,695,000</u>

Determine the taxable income of the company and net tax liability thereof. Assume that Jonesville Inc. is a public limited company and the salary expenses includes taka 20,000 paid to an employee as leave allowance and taka 25,000 as contribution to recognized provident fund; legal expenses includes taka 10,000 paid to the finders for purchasing land; tax depreciation amounts to taka

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60,000; donation includes taka 30,000 paid as subscription to Dhaka Club; company has declared stock dividend of taka 1,50,000 during the year; the advertisement expenses were made for 6 years; the company donated Tk. 50,000 to a national level institution engaged in preserving the memory of liberation war and during the year, the company sold office furniture for taka 80,000. The initial cost of the furniture sold was 60,000 with written down value of taka 55,000.

Solution 18C – 3:

Jonesville Inc.		
Status: Resident Company		
Income Year: 2016-17; Assessment Year: 2017-18		
	Taka	Taka
Income from Business or Profession:		
Net Profit as per Profit and Loss Account		400,000
Add: Inadmissible Expenses		
Advertisements (5/6 th)	100,000	
Donation	80,000	
Bad Debt	35,000	
Trade Mark	25,000	
Fine and Penalty	30,000	
Legal Expenses	40,000	
Loss on Embezzlement	30,000	
Income Tax	25,000	
Share Discount	70,000	
Dividend Equalization Fund	40,000	
Depreciation	70,000	
		545,000
		945,000
Less: Expenses Admissible but not Shown: Depreciation		60,000
		885,000
Less: Income received from Non-Business Heads		
Dividend	60,000	
Gain on sale of Asset	25,000	
		85,000
		800,000
Add: Revenue profit on sale of asset		5,000
Taxable income from Business		805,000
Non-Business Income: Dividend	60,000	
Capital Gain on sale of Asset	20,000	
		80,000
Total Income		725,000

Computation of Tax Liability:

Tax on total income excluding dividend and capital gain (25% of Tk. 805,000)	Tk. 201,250
Tax on dividend (20% of taka 60,000)	12,000
Tax on Capital Gain (15% of taka 20,000)	3,000
Gross Tax Liability	216,250
Less: Tax rebate @10% on Tk. 50,000 for CSR activities	5,000
Net tax liability	211,250

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Notes: (1) Gain on Sale of Furniture is taka 25,000 (taka 80,000 – taka 55,000). Capital gain amounts to taka 20,000 (taka 80,000 – taka 60,000) and revenue gain amounts to taka 5,000 (taka 25,000 – taka 20,000). (2) As advertisement expenses are incurred for 6 years, expenses for 5 years are not allowed and therefore deferred. (3) Legal expenses and donations are not allowed. (4) Stock dividend has no impact on the calculation of taxable income. Here, it is assumed that the amount of dividend declared is less than 20% and so no rebate is claimed. (5) Leave allowance and contribution to RPF is allowable deductions. (6) It is not possible to compute minimum tax due to lack of information. It is assumed that the tax liability computed is more than minimum tax. (7) The company will claim 10% tax rebate for the donation to a national level institution engaged in preserving the memory of the liberation war which falls within the area of approved CSR. And the amount doesn't cross the maximum limit of Tk. 145,000 (20% of Tk. 7,25,000 or Tk. 8,00,00,000; which one is lower).

Illustration 18C – 4:

From the following Profit and Loss Account for the year ended 30th June 2017 of X Ltd, determine total income and tax liability.

X Ltd.			
Profit and Loss Account			
Dr.	For the Year ended on June 30, 2017		Cr.
Directors Remuneration	46,000	Gross Profit	375,000
Salaries and Wages	100,052	Dividend Income	30,000
Contribution to Provident Fund	8,800	Share Premium	30,000
Rent and Taxes	24,500	Sundry Income	13,000
Repairs and Operating Expenses	27,300		
Electricity	17,500		
Insurance	8,000		
Legal Expenses	14,500		
Audit Fees	5,800		
Printing, Stationery & Postage	14,600		
Compensation for termination of a Staff	10,000		
Purchase of Typewriter	5,948		
Advertisement	14,200		
Entertainment	7,500		
Provision for Bad Debt	4,400		
Depreciation	46,600		
Net Profit	92,300		
	<u>448,000</u>		<u>448,000</u>

Other Information:

Rent and Taxes included VAT of taka 4,200 which was paid for importing a machine and it was not used during the relevant year; Legal expenses included a sum of taka 10,000 spent for income tax appeal; The company is a trading company; Provident fund is recognized by the income tax authority; Bad debt written off previously was recovered during the year taka 2,000; Allowable depreciation taka 58,400; Repairs and operating expenses included taka 6,000 spent for the installation of a second hand air conditioner in the flat of MD; Entertainment expenses included a sum of taka 2,000 for which no clear explanation was available; and the company is not registered in the stock exchange.

(CMA adapted)

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Solution 18C – 4:

X Ltd.
Status: Resident Company
Income Year: 2016 – 17
Assessment Year: 2015 – 16

	Taka	Taka
Income from Business or Profession:		
Net Profit as per Profit and Loss Account		92,300
Add: Inadmissible Expenses		
Rent & Taxes (to the extent of VAT)	4,200	
Purchase of Typewriter	5,948	
Provision for Bad Debt	4,400	
Repairs and Operating Expenses	6,000	
Entertainment Expenses – unexplained	2,000	
Entertainment Expenses - additional	1,508	
Depreciation	46,600	70,656
		162,956
Less: Expenses Admissible but not Shown: Depreciation		58,400
		104,556
Add: Income not Credited to P/L Account		
Bad Debt Recovered		2,000
		106,556
Less: Income received from Non-Business Heads		
Dividend	30,000	
Share Premium	30,000	60,000
Taxable income from Business		46,556
Non-Business Income:		
Dividend		30,000
Total Income		<u>76,556</u>

Computation of Tax Liability:

Tax on total income excluding dividend (35% of Tk. 46,556)	Tk. 16,295
Tax on dividend (20% of taka 30,000)	<u>6,000</u>
Gross Tax Liability	<u>22,295</u>

Minimum Tax: It is not possible to compute minimum tax due to lack of information. It is assumed that the tax liability computed is more than minimum tax.

Note: Determination of admissible entertainment expense:

Net profit before charging entertainment expenses (taka 92,300 + 7,500)	Taka 99,800
Thus, admissible entertainment allowance: (4% of taka 99,800)	Taka 3,992
Inadmissible entertainment allowance (Taka 7,500 – 2,000 – 3,992)	Taka 1,508

Illustration 18C – 5:

The Income Statement of Fareast Enterprise Limited for the year ended 30th June, 2017 was as follows:

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Particulars		Taka	Taka
	Sales	2,00,00,000	
Less:	Cost of Goods Sold	27,00,000	
	Gross Profit		1,73,00,000
Less:	Selling and Administrative Expenses		
	Printing and Stationary	3,00,000	
	Office Expenses	15,00,000	
	Salaries	25,40,000	
	Travelling Expenses	6,60,000	
	Audit fees	5,00,000	
	Legal Expenses for Income Tax Return	2,40,000	
	Repairs for residential houses of Employees	3,30,000	
	Compensation to the families of the staff	3,10,000	
	Robbery of Cash	4,60,000	
	Bad Debt provision	5,00,000	
	Commission	2,60,000	
	Renewal Charges for Trade Mark Registration	2,00,000	
	Bonus to Staff - Cash	8,00,000	
	Bonus to Staff - Bonus Share	6,00,000	
	Managing Agent's Commission	10,00,000	
			1,02,00,000
			71,00,000
Add:	Profit on Reissue of shares	1,20,000	
	Profit on Sale of Machineries	4,80,000	
	Share Premium	3,00,000	
	Interest on Tax - Exempt Govt. Securities	3,00,000	
	Sundry Income	9,00,000	
			21,00,000
	Net Profit		<u>92,00,000</u>

Additional Information:

- (i) Tax has not been deducted on printing and stationary bills.
- (ii) Salaries included Tk. 4,00,000 paid to the Retired Manager for house rent and Tk. 6,00,000 contribution to the Pension Fund.
- (iii) Compensation to the family of a staff included Tk. 1,00,000 paid for a peon who was injured in a road accident while bringing breakfast for the manager and Tk. 2,10,000 paid for the termination of a certain employee.
- (iv) Bad Debt Tk. 80,000 and Tk. 60,000 provision for the last year were written off.
- (v) Commission paid to a certain Staff Tk. 3,000.
- (vi) The sold machine was purchased six years ago and its book value was Tk. 2,00,000 but its book value as per Income Tax Rule was zero. The cost price of the machine was Tk. 10,00,000.

Determine the Taxable Income and tax should be paid by the Company.

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Solution 18C – 5:

Assesse: Fareast Enterprise Limited

Assessment Year: 2017 – 2018; Income Year: 2016 – 2017

Particulars	Tk.	Tk.
Net Profit as per Profit and Loss Account		9,200,000
Add: Inadmissible expenses:		
Printing and Stationary Expenses	300,000	
Bad Debt Provision (5,00,000 + 60,000)	560,000	
Robbery of Cash	460,000	1,320,000
		<u>10,520,000</u>
Less: Non-business income:		
Profit on Reissue of Shares	120,000	
Profit on Sale of machine	480,000	
Share Premium	300,000	900,000
		<u>9,620,000</u>
Less: Admissible expenses:		
Bad Debt Written off		80,000
		<u>9,540,000</u>
Add: Business Income on sale of Machineries		680,000
Income from Business		<u>10,220,000</u>
Total Income:		
Income from Business		10,220,000
Interest on Tax-free Govt. Security (Fully Exempted)		-
Total Income		<u><u>10,220,000</u></u>

Tax Liability			
Particulars	Gross Income	Tax Rate	Amount of Tax
Tax on Total Income	Tk. 10,220,000	35.00%	Tk. 3,577,000

Notes: (1) Tax has not been deducted at source and therefore it is considered as inadmissible. (2) House Rent paid to the Retired Manager and Contribution to the Pension Fund are admissible expenses for the company. (3) Compensation paid for the injury of a peon and termination of a certain employee is admissible expense. (4) Commission paid to a certain staff is considered as business expense and as such it is admissible. (5) All other expenses charged as administrative and selling expenses have been assumed as business expenses. (6) Robbery of cash has been assumed as done by the stranger during the office period and as such it is inadmissible. (7) Profit on Sale of Machineries has been considered as business profit. (8) **Capital Gain on Sale of Machine:**

Sale Value (2,00,000 + 4,80,000)	680,000
Original Cost	1,000,000
Capital Gain	Nil
Revenue Gain / Business Income from Sale of Machine:	
Sale Value	680,000
Book Value	Nil
Total gain	680,000
Capital Gain	Nil
Business Income or Revenue Gain	680,000

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Illustration 18C – 6:

The following adjusted accounts appeared in the records of ABC Ltd. for the year ended December 31, 2016. Numbers in brackets refer to the items in additional information.

	<i>(Amount in '000 Tk.)</i>	
	<u>Amount</u>	<u>Ref</u>
Revenues and Gains:		
Net sales	126,500	
Interest	1,000	(1)
Gain on sale of shares	2,500	(2)
	<u>1,30,000</u>	
Costs and Expenses:		
Cost of goods sold	65,300	
Salaries and wages	26,000	(3)
Security services	300	(4)
Audit and taxation services	500	
Office rent	600	
Donations	1,800	(5)
Board meeting attendance fee	300	(6)
Other expenses	3,000	(7)
Depreciation	8,000	(8)
Corporate income tax	4,500	(9)
Total	<u>110,300</u>	
Net profit	<u>19,700</u>	
Dividends paid	9,000	(10)

Additional Information

- (1) Interest revenue comprises interest on government bonds issued in 2011 and purchased by ABC Ltd. in 2014.
- (2) Gain on sale of shares arose from the following purchase and sale of shares of a company listed with DSE and CSE:

Bought in 2011 cost	Tk. 12,00,000
Sold in 2014 proceeds of sale	Tk. 37,00,000
- (3) Salaries and wages include inter alia salary of Finance Manager Tk. 6,00,000 (consolidated) paid in cash (not by cheque or bank transfer), gratuity (unapproved) provision of Tk. 15,00,000 and gratuity payment of Tk. 10,00,000.
- (4) Security services include payments to a private security company. No VAT was deducted at source from such payments.
- (5) Donations were all paid in 2014 to ICMAB, specially designated for the purchase of library books, computers and training materials.
- (6) No income tax and VAT was deducted at source from Board meeting attendance fee paid to 10 (ten) directors.
- (7) Other expenses include inter alia:
 - (a) Entertainment expenses of Tk. 5,00,000 spent on MD's birthday party; and
 - (b) Four foreign travels of MD, each costing Tk. 2,00,000. All foreign trips were for business purposes.
- (8) ABC Ltd. has always used written down value depreciation and same depreciation rates for both accounts and tax purposes.

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- (9) Corporate income tax is the amount estimated before preparation of the tax return. 60% of the estimated amount of tax has been paid as advance tax during the year 2014.
- (10) Dividend has been paid at the rate of 25%.

The company has a capital loss of Tk. 10,00,000 carried forward from the assessment year 2013-2014. ABC Ltd. is a publicly traded company.

Required: Compute the total income and the total income tax liability of ABC Ltd. while making the above computations, any non-compliance of the relevant provisions of the tax laws (income tax as well as VAT) by the company are to be considered strictly in accordance with the legal provisions for such non-compliances. If considered necessary, you may make assumptions in the light of the relevant tax provisions. (CMA Adapted)

Solution 18C – 6:

ABC Ltd. Computation of Total Income For the year ended on December 2016 Assessment year: 2017 – 2018		
		Taka
Net profit as per accounts		1,97,00,000
Less: Income for consideration at separate head:-		
(a) Interest	Tk. 10,00,000	
(b) Capital gain on sale of shares of listed companies	<u>25,00,000</u>	<u>35,00,000</u>
		<u>1,62,00,000</u>
Add: Inadmissible Expenses		
(1) Salary and wages		
(a) Salary of finance Manager Tk. 6,00,000 disallowed as per provision of section 30(i) being paid in cash not by crossed cheque of bank transfer		6,00,000
(b) Gratuity provision Tk. 15,00,000 disallowed being no such provision is allowable u/s 29 of ITO 1984		15,00,000
(c) Gratuity payment Tk. 10,00,000 disallowed being not Approved by the NBR		<u>10,00,000</u>
		31,00,000
(2) Security service Tk. 3,00,000		
Disallowed fully under section 30(aa) being VAT was not deducted at source		3,00,000
(3) Donation.Tk.18,00,000		
Disallowed fully as it is not allowable business expenditure u/s 29. Moreover, donation was made to ICMAB which is not approved Institution of NBR. So it will not be considered for CSR also.		1,80,000
(4) Board Meeting Attendance fee Tk. 3,00,000		
TDS not applicable but VDS is applicable on Board meetings Attendance fee. AS VAT was not deducted at source from Board meeting attendance fee, so disallowed such expense u/s 30(aa)		3,00,000
(5) Other Exp. Tk. 30,00,000		
(a) Entertainment exp. of Tk. 5,00,000		

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Spent on MD's birthday party which is personal expenditure and no such personal expenditure is allowable u/s 29	5,00,000
(b) Foreign travel for business purpose Tk. 8,00,000	
It is allowable u/s 30(k) up to 1% of the disclosed turnover which is Tk. 12,65,00,000 x 1% = Tk. 12,65,000. As it is within limit, so nothing to add back from here.	Nil
(6) Corporate Income Tax Tk. 45,00,000	
Tax is not an expense and hence it is not allowable expenditure u/s 29. So disallowed corporate income tax fully	45,00,000
	<u>88,80,000</u>
Income for Business or Profession	2,50,80,000
Income from Interest on securities (Sec. 22)	<u>10,00,000</u>
Capital Gain (Sec. 31)	
Capital Gain from sales of Shares of Listed Co.	25,00,000
Less: Capital loss of Tk. 10,00,000 for the A/Y 2013-2014	
Carried forward for set off u/s-40 (Tk. 10,00,000 – Tk. 5,000)	9,95,000
	<u>15,05,000</u>
Total Income	<u>2,75,85,000</u>

Tax Calculation:

Tax on income other than Capital Gain @ 22.5% (as dividend paid more than 20%)	58,68,000
Tk. 2,75,85,000 – 15,05,000 = 2,60,80,000 x 22.5% =	
Tax on Capital Gain @ 10% as per SRO No. 269 of 2011 Tk.15,05,000 x 10%	1,50,500
	<u>57,17,500</u>

Add: Simple Interest for non-payment of adequate advance tax u/s 73

Tk. 58,68,000 x 75% = Tk. 44,01,000

Less: advance tax paid (45,00,000 x 60%) = Tk. 27,00,000

Tk. 17,01,000 x 10% for 2 years

(Assuming it was not paid as per provision of section 64) for 2 years 3,40,200

(From 1st April 2015 to 31st March 2017) (Assuming date of assessment is 31.03.17)

60,57,700

Less: Advanced Tax paid (60% of Tk. 45,00,000)

27,00,000

Net Tax Payable 33,57,700

Test of minimum tax:

0.60% of Gross receipt of Tk. 13,00,00,000 = 7,80,000

Which is lower than tax at normal tax rate. So net tax payable will be 33,57,700

Illustration 18C – 7:

From the following Profit & Loss Account of Oman Bank, a non-resident bank, for the year ended on 31/12/2016, compute total taxable income and tax liability:

	Debit (Tk.)		Credit (Tk.)
Salaries and allowances	20,00,000	Interest and commission	1,20,00,000
Interest on deposit	40,00,000	Gain from sale of old car	10,00,000
Car maintenance	5,00,000		
Head office expenses (as per allocation by head office)	3,00,000		
Bad debt	6,00,000		

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Provision for bad debt	4,00,000	
Audit fee	2,00,000	
Depreciation	15,00,000	
Technical fee	1,00,000	
Scholarship to poor students	8,00,000	
Special reserve	2,00,000	
Advertisement	7,00,000	
Entertainment	8,00,000	
Traveling :		
(a) within the country	50,000	
(b) outside the country (including head office tour)	4,50,000	
Net profit	<u>4,00,000</u>	
	<u>1,30,00,000</u>	<u>1,30,00,000</u>

Additional Information:

- (1) Salaries and allowances include incentive bonus to employees Tk. 3,00,000.
- (2) VAT at source was not deducted from car workshop bill of Tk. 2,00,000.
- (3) Provision for bad debt is within 1% of classified loan.
- (4) Tax depreciation as per tax law is Tk. 10,00,000.
- (5) Advertisement bill paid to advertisement agency for periodic advertisement to private TV channel. No tax at source was deducted from the bill because agent submitted their bill without any break-up of commission.
- (6) The car sold was purchased 5 years ago at Tk. 50,00,000 and its book value (assumed to be written down value as per tax law) was Tk.25,00,000 at the time of sale at Tk.35,00,000

(CMA Adapted)

Solution 18C – 7:

Oman Bank Computation of Total Income For the year ended on 31st Dec. 2016 (Assessment year: 2017-18)

	Taka	Taka
A. Income from Business:		
Net profit as per profit and loss account	4,00,000	
Less: capital gain from sale of car (for consideration at separate head of Income)	<u>10,00,000</u>	
Shown Business Loss		6,00,000
Less: - disallowances of expenditures for consideration as per tax Law		
1. Depreciation (for consideration as per 3 rd Schedule)	15,00,000	
2. Entertainment –(for consideration as per Rule-65)	8,00,000	
3. Head office Exp. –(for consideration as per Section 30(g))	3,00,000	
4. Technical Fee –(for consideration as per 30(h))	1,00,000	
5. Overseas Travelling –(for consideration as per 30(k))	4,50,000	
6. Incentive Bonus –(for consideration as per 30(j))	<u>3,00,000</u>	<u>34,50,000</u>
Income:		<u>28,50,000</u>

Add: - Inadmissible Expenses

1. Car workshop Bill Payment Tk. 2,00,000

2,00,000

Out of total car maintenance of Tk. 5,00,000, car workshop bill payment was Tk. 2,00,000 where from no VAT at source was deducted. The Items from where VAT is to be deducted Car workshop Bill payment is one of them. So for non deduction of VAT at source, Car workshop bill payment is disallowed as per provision of section 30(aa) of ITO, 1984

2. Provision for bad debt Tk. 4,00,000

4, 00,000

Provision for bad debt was allowable expenditure for banking companies up to assessment year 2006-07. As there is no such provision for the year under consideration, so disallowed fully

3. Scholarship to poor students Tk. 8,00,000

8,00,000

As it is not business related expenditure so disallowed fully. 10% rebate facility is applicable in case of CSR if it is disbursed through Govt. approved educational institution and also fulfillment of other conditions. As there is no such information in the question so the bank will not be entitled to get 10% rebate facility

4. Special Reserve Tk. 2,00,000

2,00,000

Reserve is not an item of P & L. Moreover there is no information about the nature of such reserve and whether it is Govt. approved or not. So disallowed fully as section 29(1) (V) is not complied with

Advertisement Tk. 7,00,000

Nil

As it is not direct advertisement so TDS @ 3% is not applicable as per section 53 (k) Rather section 52A is applicable on commission paid to advertising agent. But as the quantum of commission is not identifiable and as NBR, has not declared any truncated base like private security service agency commission and stevedoring agency commission, so as there is no way to deduct tax at source, expenditure claimed will be allowed fully and nothing will be added back as per section 30(aa).

Less:

1. Tax Depreciation (as per 3rd schedule)

10,00,000

16,00,000

2. Incentive Bonus (as per section 30 (j))

40,000

3. Overseas travelling 1% of disclosed turnover i.e., Tk. 1,20,00,000

1,20,000

11,60,000

4,40,000

Income base on which Entertainment H/O exp. and technical fee is allowable (*Reference NBR Clarification no 1 of 2003*)

32,90,000

Less: Allowable exp. as per section 30		
1. Entertainment (as per rule -65)		
on 1 st the 10,00,000@ 4%	40,000	
on balance the 22,90,000@ 2%	<u>45,800</u>	85,800
2. H/O Exp. 10% of assessed business income comes at Tk. 32,90,000 × 10% = 3,29,000 but the claim is Tk. 3,00,000 so the claim is allowed		
	3,00,000	
3. Technical fee 8% of 32,90,000 come at Tk. 2,63,200/- but the actual claim is Tk.1,00,000/- As the actual claim is lower than the ceiling of entitlement, so the claim is allowed		
	<u>1,00,000</u>	4,00,000
Income from Business:		<u>28,04,200</u>
B. Capital Gain:		
Capital Gain from sale of car shown Tk. 10,00,000		10,00,000
As there is no information regarding the WDV, purchase price, sales price etc. gain as per tax law is not possible to calculate. So is assume that the car purchased and sold in the same year so that there is no question of depreciation, and if that is no depreciation then there is question of revenue gain from sale of car in addition to capital gain. Thus the capital shown by the bank is accepted		
Total Income:		<u>38,04,200</u>
<u>Tax calculation</u>		
on Tk. 28,04,200 Tax @ 42.50%	11,91,785	
on Tk.10,00,000 tax @ 15%	<u>1,50,000</u>	
Tax liability:		<u>13,41,785</u>

Illustration 18C – 8:

The profit and loss account of Care Pharmaceuticals for the year ended on June 30, 2017 reports net income of taka 2,000,000. A careful scrutiny of accounts and supporting documents revealed the following facts:

During the year the company sold some of its pharmaceutical supplies that remained unused for a long time in the storeroom. The company sold the supplies for a loss of taka 150,000 as the expiry period is very close and charged such loss against current year's profit. The company recovered taka 20,000 from bad debt that was written off earlier and was allowed. The amount so recovered was credited to sundry debtors account. The company had taka 80,000 interests due to Bangladesh Development Bank Limited in the year 2010 and such interest was shown as allowable deduction in that year. Still, such interest remains unpaid. The company has a trading liability with one overseas company to the tune of taka 150,000 which has been totally waived by the overseas company under special agreement during this year.

During the year, the company sold one equipment for taka 180,000 which was purchased at a total cost of taka 130,000 and had a written down value of taka 90,000 on the date of sale. The company reports taka 90,000 as gain on sale of equipment in the credit side of profit and loss account. Due to a sudden fire on the factory building, the extended portion of the building is totally destroyed

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and compensation received from the insurance company totaled taka 250,000. In addition, the company realized an additional sum of taka 30,000 by selling the scrap. The extension was constructed at a total cost of taka 400,000 and depreciation charged to date amounts to taka 50,000. The company sold a scientific apparatus used for scientific research for taka 80,000 which was originally purchased at taka 150,000 and fully depreciated. The sale proceed is not recorded at all.

The company have had export quota for exporting garments to EU countries. As the company has recently changed the line of operation (switched from garments manufacturing to pharmaceuticals), it transferred the export quota to another garments manufacturer for an annual sum of taka 70,000. Such income is not reported at all. The company claimed investment allowance for new machinery installed during the year costing taka 1,000,000 which is entitled to accelerated depreciation. Bonus and commission to the field representatives at the rate of 4 months pay taka 300,000 including 1 month's pay as festival bonus. But the general practice of bonus and commission for the similar business is two months pay. Sum of taka 120,000 paid to an institution for scientific research which is not approved by NBR. Besides, sum of taka 500,000 is expensed for establishing a hospital for the benefit of employees without any charge. The company has not claimed any other deduction or allowance.

Salary of taka 500,000 and rent of taka 80,000 were paid without deducting tax at source. Payment of brokerage and commission of taka 60,000 made to a non-resident without deducting tax at source. Annual perquisites enjoyed by MD, Chairman and 5 members of BOD amounts to taka 4,125,000. Accounting depreciation charged to the account is taka 250,000 but tax depreciation amounts to taka 300,000 excluding the amount of accelerated depreciation on machinery. Value of the free sample distributed was taka 200,000. Annual turnover during the year was taka 8,000,000. Expenditure on foreign travels for holidaying and recreation of the employees and their dependants to the extent of the amount equivalent to three months basic salary of taka 360,000; actual expenditure being taka 400,000 and that the travel was not oftener than once in two years. Sum of taka 50,000 expended to train employees (Bangladeshi citizen) in connection with a scheme approved by the Board. The company expensed a sum of taka 200,000 for visits abroad as a member of trade delegation sponsored by the government.

Annual membership fee of taka 150,000 is paid to Bangladesh Pharmaceutical Society which is a professional institution recognized by the Board. Expenditure on publicity and advertisement amounts taka 300,000 and Entertainment expenditure, taka 150,000.

Required: Compute the taxable income of the company.

Solution 18C – 8:

Care Pharmaceuticals		
Status: Resident Company		
Income Year: 2016 – 2017		
Assessment Year: 2017 – 2018		
	Taka	Taka
Income from Business or Profession:		
Net Profit as per Profit and Loss Account		2,000,000
Add: Inadmissible Expenses		
Excess Bonus paid to Field Representatives	120,000	

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Amount paid for conducting scientific research	120,000	
Salary and Rent paid without TDS	580,000	
Payment to Non-resident without TDS	60,000	
Excess amount of Perquisites	800,000	
Depreciation	250,000	
Excess cost of Free Sample	40,000	
Excess amount in Holidaying and Recreation	60,000	
		<u>2,030,000</u>
		4,030,000
Less: Expenses Admissible but not Shown		
Accelerated Depreciation on Machinery	800,000	
Depreciation	300,000	
		<u>1,100,000</u>
Add: Income not Credited to P/L Account		2,930,000
Bad Debt Recovered	20,000	
Interest due to Bangladesh Development Bank Ltd.	80,000	
Waiver of a Trading Liability	150,000	
Sale proceed of Scientific Apparatus	80,000	
Receipt from transferring Export Quota	70,000	
		<u>400,000</u>
		3,330,000
Add: Revenue Profit on Sale of Equipment		40,000
		<u>3,370,000</u>
Less: Income received from Non-Business Heads		
Gain on Sale of Equipment		90,000
		<u>3,280,000</u>
Adjusted net profit before allowance for Entertainment Exp.		3,280,000
Add: Entertainment allowance to be considered separately		150,000
		<u>3,430,000</u>
Less: Admissible Entertainment Allowance		88,600
		<u>3,341,400</u>
Taxable income under the head business		3,341,400
Non-Business Income: Capital Gain		50,000
Total taxable Income		<u>3,391,400</u>

Notes:

1. Loss on sale of supplies is an allowable deduction as such supplies does not fall under capital asset as per the definition given in sec 2(15).
2. Amount of bad debt recovered will be the current year's profit and should be credited to the profit and loss account as such bad debt was allowed earlier.
3. As the interest due to Bangladesh Development Bank Limited is not paid within three years, such interest will be deemed to be current year's income [U/s – 19(15)(aa)].
4. As the company received waiver of a trading liability during this year, it should be shown as deemed income of the year [U/s – 19(15) (b)].
5. Computation of Gain,
Capital Gain and Revenue Gain from the sale of equipment:
Sale Proceed of the asset taka 180,000; Written Down Value Tk. 90,000;
So, Gain on Sale Tk. 90,000;
Out of which capital gain is Tk. 50,000 [sale proceeds less initial cost of the asset] and rest Tk. 40,000 is revenue gain.

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6. As the insurance compensation received (taka 250,000) is less than the amount of written down value of the building (taka 350,000), it is not taxable [U/s – 19(15)].
7. Sale proceed of the asset used for scientific research shall be the deemed income in the year of sale under section 19(20).
8. The rate of accelerated depreciation on machinery for the first year is 80%.
9. Calculation of amount of excess bonus paid to field representatives:
Payment for 1 month, taka 60,000 (taka 300,000 ÷ 5).
So, allowable bonus will be taka 180,000 (2 months bonus and 1 months festival bonus).
Excess amount paid is taka 120,000 (taka 300,000 – taka 180,000).
10. The amount expensed for hospital is allowable deduction as it charges nothing against services from the employees and the company claims no deduction or allowance in this regard.
11. Allowable amount of perquisites to MD, Chairman and 5 Directors will be taka 3,325,000 (taka 475,000 × 7). Thus, excess amount of perquisite is taka 800,000 (taka 4,125,000 – taka 3,325,000) that is not allowed.
12. The allowable rate of free sample for a pharmaceutical industry is 2% for annual turnover upto taka 5 crore. The turnover of the company were taka 8,000,000 and free sample allowed is taka 160,000 (2% of taka 8,000,000). Thus, excess amount was taka 40,000 (taka 200,000 – taka 160,000) that is not allowed.
13. Three (3) months basic salary taka 360,000 and 3/4th of actual expenditure (3/4th of 400,000) Tk. 300,000. Excess amount paid that is not allowed Tk. 60,000.
14. Amount of admissible entertainment allowance:
On the first taka 1,000,000 @ 4% taka 40,000 and
on the balance taka 2,430,000 @ 2% 48,600.
So, on total income of taka 3,430,000 taka 88,600.

KEY POINTS

2. As per ITO, 1984 "Company" means a company as defined in the Companies Act, 1913 (VII of 1913) or Companies Act, 1994.
3. For a Company, "Resident", in respect of any income year, means a Bangladeshi company or any other company the control and management of whose affairs is situated wholly in Bangladesh in that year [U/s – 2(55)(c)].
4. A company assessee shall have to furnish a return setting forth therein its total income by the 15th day of July each year or within 6 months from the end of the income year whichever is later.
5. Where loss is assessed in any head of income, the company is entitled to set off the loss against its income assessed in other heads of that year excluding loss on speculation business and loss on capital gain.
6. Every company assessee shall pay advance tax in four equal installments falling on 15th Sept.; 15th Dec.; 15th March and 15th June of each financial year if the latest assessed income exceeds Tk. two lakhs.
7. Companies are not required to pay any minimum tax.
8. If any publicly traded company other than bank, insurance, financial institutions declare dividends at the rate of more than 20%, it will enjoy 10% of tax rebate on applicable tax.
9. For Bank, Insurance and Financial Institutions the applicable tax rate is 45%.
10. Accelerated depreciation on cost of machinery is admissible for new industrial undertaking in the first three years of commercial production @ 50%, 30% and 20% respectively.
11. In case of company, "undistributed profit" means total income with accumulated profit including free reserve.

Multiple choice questions:

1. A resident company should fulfill the following conditions except –
 - (a) Should be a Bangladeshi company
 - (b) Management and control should be in Bangladesh
 - (c) Body corporate constituted by any law in Bangladesh
 - (d) Should be publicly traded company
2. A company assessee shall have to furnish a return by the –
 - (a) 15th July
 - (b) 30th September
 - (c) within 6 months from year end
 - (d) later of a & c
3. Unabsorbed depreciation can be carried forward for –
 - (a) 6 successive assessment year
 - (b) next assessment year
 - (c) unlimited period
 - (d) no more than current year
4. Every company assessee shall pay advance tax in four equal installments falling on –
 - (a) 15th Sept.; 15th Dec.; 15th March and 15th June
 - (b) 15th June; 15th Sept.; 15th Dec. and 15th March
 - (c) 15th March; 15th June; 15th Sept. and 15th Dec.
 - (d) 15th Dec.; 15th March 15th June and 15th Sept.
5. If the amount of advance tax together with the TDS, is less than 75% of the tax payable on the basis of regular assessment, what rate of interest is leviable –
 - (a) 5%
 - (b) 10%
 - (c) 15%
 - (d) 20%
6. Initial depreciation allowance on machinery for first year is @ –
 - (a) 25%
 - (b) 50%
 - (c) 80%
 - (d) 100%
7. Industry set up in EPZ is totally exempted from tax for a period of –
 - (a) 4 years
 - (b) 6 years
 - (c) 8 years
 - (d) 10 years
8. Listed companies are entitled to 10% tax rebate if they declare dividend @ –
 - (a) 15% and above
 - (b) 20% and above
 - (c) less than 15%
 - (d) less than 20%
9. Minimum tax limit for a company that reports loss in the income year is –
 - (a) 0.25% of turnover
 - (b) Tk. 3,000
 - (c) 0.03% of Gross Receipt
 - (d) None of the above

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10. At least what percentage of capital a mobile phone operator company should issue through IPO to pay tax at minimum rate –
- 5%
 - 10%
 - 15%
 - 20%

Identify the following statements as True (T) or False (F):

- Minimum tax of a company will be Tk. 5,000.
- If a banking company states profit 50% higher than capital and reserve, it will not pay tax on excess profit.
- The charge of additional tax is applicable @ 5%.
- Capital gain arising out of Transfer of stocks and shares of any company registered under Companies Act, 1994 is taxed @ 15%.
- A company declared no dividend will pay tax @ 40%.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 18A – 1: What is meant by a company under ITO, 1984?
- Question 18A – 2: State the conditions required to be a resident company.
- Question 18A – 3: Discuss the implication of withholding tax and advance payment of tax from a company perspective.
- Question 18A – 4: “Company enjoys a number of fiscal incentives” – explain.
- Question 18A – 5: State the procedure of assessment of a company.
- Question 18A – 6: In which situations a company can claim tax rebate and at what rate?
- Question 18A – 7: Cite different tax rates applicable to different types of companies under finance ordinance 2008.
- Question 18A – 8: Write short note on:
- Industrial company
 - Set off and carry forward of losses
 - Charge of additional tax
 - Charge of minimum tax

Problem 18C – 1:

The profit and loss account of XYZ & Co is given below for the assessment year 2017-18.

XYZ & Co			
Profit and Loss Account			
Dr.	For the year ended on June 30, 2016		Cr.
Cost of Goods Sold	1,200,000	Sales	3,600,000
Salaries	500,000	Dividend	80,000
Rent	120,000	Interest	30,000
Advertisements	120,000	Gain on sale of Asset	30,000
Interest on Loan	80,000	Interest on Tax-Free Securities	25,000
Utility Expenses	60,000		
Charity	150,000		
Transportation Expenses	100,000		

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Audit Fee	150,000	
Bad Debt	80,000	
Contribution to RPF	70,000	
Income Tax paid in Advance	50,000	
Fines paid to Customs	20,000	
Annual Membership	15,000	
Legal Expenses	40,000	
Insurance Premium	35,000	
Sundry Expenses	12,000	
Depreciation	80,000	
Net Profit	213,000	
Total	<u>3,725,000</u>	<u>3,725,000</u>

Other information:

1. Salaries paid without deducting tax at sources.
2. Tax depreciation amounts to taka 100,000.
3. Legal expenses are paid due to the litigation against the company.
4. The company has sold an asset for taka 100,000 that the company has purchased 4 years back at a cost of taka 80,000 with a written down value of taka 70,000 to date.

Required: Determine the taxable income of the company and net tax liability thereof. Assume that ABC & Co is a public limited company for the purpose of tax computation.

Problem 18C – 2:

The financial statement extract for XYZ & Co for the income year ended on June 30, 2017 is given below:

XYZ & Co			
Trading, Profit & Loss and Profit & Loss Appropriation Account			
Dr.	For the Year ended on June 30, 2017		Cr.
Beginning Inventory	50,000	Sales	2,500,000
Purchase	1,000,000	Ending Inventory	100,000
Wages	100,000		
Fuel, Power and Gas	60,000		
Gross Profit	1,390,000		
	<u>2,600,000</u>		<u>2,600,000</u>
Salary	200,000	Gross Profit brought down	1,390,000
Repairs	40,000	Share Premium	400,000
Extension	150,000	Recovery of Bad Debt	5,000
Interest on Debenture	30,000	Refund of Income Tax	15,000
Lawyers Fee	20,000	Dividend	60,000
Audit Fee	45,000	Gain on Sale of Asset	20,000
Advance Income Tax	40,000		
Bad & Doubtful Debt	15,000		
Gift	25,000		
Loss on Sale of Investment	15,000		
Loss of Stock due to Fire	120,000		
Penalty	25,000		

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Depreciation	60,000		
Net Profit	1,105,000		
	<u>1,890,000</u>		<u>1,890,000</u>
Commission to Managing Agent	82,000	Net Profit brought down	1,105,000
Bonuses to Shareholders	218,000		
Provision for Taxation	40,000		
Dividends	80,000		
Balance	685,000		
	<u>1,105,000</u>		<u>1,105,000</u>

Other Information:

1. Tax depreciation amounts to taka 80,000.
2. The company has sold an asset for taka 100,000 that the company has purchased 4 years back at a cost of taka 100,000 with a written down value of taka 80,000 to date.
3. Extension was made to the building.
4. The penalty was collected by the customs authority.

Required: Determine the taxable income of the company and net tax liability thereof. Assume that ABC & Co is a public limited company for the purpose of tax computation.

Problem 18C – 3:

The income statement for the year ended June 30, 2017 of Juvenile Inc. is given below:

Juvenile Inc.			
Income Statement			
Dr.	For the year ended June 30, 2017		Cr.
Salaries	350,000	Gross Profit	1,250,000
Office Rent	80,000	Dividend	60,000
Commission	30,000	Share Transfer Fee	40,000
Advertisements	60,000	Share Premium	60,000
Donation	40,000	Gain on Sale of Furniture	20,000
Interest on Debenture	60,000		
Provision for Bad Debt	25,000		
Copyright	30,000		
Penalty	30,000		
Audit Fee	40,000		
Law Charges	30,000		
Loss on Fire	40,000		
Advance Income Tax	25,000		
Insurance Premium	15,000		
Reserve Fund	40,000		
Depreciation	70,000		
Net Profit	465,000		
	<u>1,430,000</u>		<u>1,430,000</u>

Other Information:

1. Salary includes perquisites to the extent of taka 250,000.
2. Tax Depreciation amounts to taka 90,000.

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3. Law chares are incurred due to the filing of a court case by the company against one of its competitor for infringement of trademark.
4. Donation is made to authorized institutions.
5. Company has declared 15% cash dividend and another 10% stock dividend.
6. During the year, the company sold office furniture for taka 80,000. The initial cost of the furniture sold was 90,000 with written down value of taka 60,000.
7. The advertisement expenses were made for 3 years.

Required: Determine the taxable income of the company and net tax liability thereof. Assume that Jonesville Inc. is a public limited company for the purpose of tax computation.

Problem 18C – 4:

From the following Profit and Loss Account for the year ended 30th June 2017 of Y Ltd, determine total income and tax liability.

Y Ltd.			
Profit and Loss Account			
Dr.	For the Year ended on June 30, 2017		Cr.
Remuneration to MD	30,000	Gross Profit	463,000
Salaries	80,000	Dividend Income	25,000
Contribution to RPF	40,000	Recovery of bad debt	4,000
Rent and Taxes	30,000	Share transfer fee	8,000
Repairs	25,000		
Utility	15,000		
Fire Insurance Premium	12,000		
Penalty	18,000		
Audit Fees	30,000		
Printing, Stationery & Postage	17,000		
Compensation from RPF	32,000		
Office Equipment	40,000		
Advertisement	30,000		
Entertainment	10,000		
Bad Debt	12,000		
Depreciation	33,000		
Net Profit	46,000		
	<u>500,000</u>		<u>500,000</u>

Other Information: (1) Rent and Taxes included VAT of taka 5,000 which was paid for importing an office equipment during the year. (2) Penalty was due to income tax authority due to tax evasion. (3) The company is a publicly traded company. (4) The recovered portion of bad debt was allowed for deduction in earlier years. (5) Tax depreciation taka 40,000. (6) Repairs included taka 4,000 spent for the installation of a second hand air conditioner in the flat of Chairman.

Problem 18C – 5:

The profit and loss account of Safe Pharmaceuticals for the year ended on June 30 2017 reports net income of taka 2,500,000. A careful scrutiny of accounts and supporting documents revealed: During the year the company sold some of its pharmaceutical supplies that remained unused for a long time in the storeroom. The company sold the supplies for a loss of taka 250,000 as the expiry

period is very close and charged such loss against current year's profit. The company recovered taka 30,000 from bad debt that was written off earlier and was disallowed. The amount so recovered was credited to sundry debtors account. The company had taka 80,000 interests due to Bangladesh Development Bank Limited in the year 2012 and such interest was shown as allowable deduction in that year. Still, such interest remains unpaid. The company has a trading liability with one overseas company to the tune of taka 100,000 which has been totally waived by the overseas company under special agreement during this year.

During the year, the company sold one equipment for taka 200,000 which was purchased at a total cost of taka 130,000 and had a written down value of taka 100,000 on the date of sale. The company reports taka 100,000 as gain on sale of equipment in the credit side of profit and loss account. Due to a sudden fire on the factory building, the extended portion of the building is totally destroyed and compensation received from the insurance company totaled taka 450,000. In addition, the insurance company realized an additional sum of taka 30,000 by selling the scrap. The extension was constructed at a total cost of taka 400,000 and depreciation charged to date amounts to taka 50,000.

The company sold a scientific apparatus used for scientific research for taka 80,000 which was originally purchased at taka 150,000 and depreciated for taka 70,000 till date. The sale proceed is not recorded at all. The company have had export quota for exporting garments to EU countries. As the company has recently changed the line of operation (switched from garments manufacturing to pharmaceuticals), it transferred the export quota to another garments manufacturer for an annual sum of taka 60,000. Such income is not reported at all. The company claimed investment allowance for new machinery installed during the last year costing taka 1,000,000 which is entitled to accelerated depreciation.

Bonus and commission to the field representatives at the rate of 4 months pay taka 300,000. But the general practice of bonus and commission for the similar business is two months pay. Sum of taka 120,000 paid to an NBR approved institution for scientific research. Sum of taka 200,000 is expensed for establishing a school for the benefit of employees without any charge. The company has not claimed any other deduction or allowance. Salary of taka 500,000 and rent of taka 80,000 were paid without deducting tax at source. Payment of brokerage and commission of taka 60,000 made to a non-resident without deducting tax at source. Excess amount of perquisites given to employees is taka 430,000.

Accounting depreciation charged to the account is taka 350,000 but tax depreciation amounts to taka 300,000 excluding the amount of accelerated depreciation on machinery. Value of the free sample distributed was taka 150,000. Annual turnover during the year was taka 9,000,000. Expenditure on foreign travels for holidaying and recreation of the employees and their dependants to the extent of the amount equivalent to four months basic salary of taka 480,000; actual expenditure being taka 400,000 and that the travel was not oftener than once in two years. Sum of taka 50,000 expended to train employees (Bangladeshi citizen) in connection with a scheme approved by the Board.

The company expensed a sum of taka 200,000 for visits abroad as a member of trade delegation sponsored by the government. Annual membership fee of taka 150,000 is paid to Bangladesh Pharmaceutical Society which is a professional institution recognized by the Board. Expenditure on publicity and advertisement is taka 250,000 and Entertainment expenditure, taka 180,000.

Required: Compute the taxable income of the company.

A P P E N D I X :

Computation of Income of Some Special Type of Business:

As per sections 28(2), 28(3), and 19(14) there are some special type of business like bank, insurance, leasing and like nature due to their typical nature of operation, where some special considerations are necessary for computing taxable income. As the readers may require such information, we have discussed these special types of business in this appendix.

Assessment of Bank:

According to Income Tax Ordinance, 1984, banks may have earnings from two different sources:

- a) Income from business or profession; and
- b) Interest on securities.

In this appendix, we will discuss only the income of banks from business or profession to be in line with the scope of this chapter. To assess the income of a bank, some special points are required to be considered carefully.

1. **Provision for bad and doubtful debt** and interest thereon made by a commercial bank including the Bangladesh Krishi Bank and the Rajshahi Krishi Unnayan bank, is allowed as deductions to the extent of 1% of the total outstanding loan including interest thereon or the amount of actual provision for such bad and doubtful debt and interest thereon in the books of the assessee, whichever is less. If any amount out of the amount so deducted is ultimately recovered the same shall be deemed to be a profit of the year in which it is recovered. [Sec29(xviiiiaa)]
2. When a banking company operating under Bank Company Act, 1991 shows profit in its return of income at an amount exceeding 50% of its capital and reserve, the bank shall pay an **excess profit tax** for that year at the rate of 15% on such excess profit. (Sec 16C). For the purpose of capital and reserve computation, Bangladesh Bank BRPD circular is relevant.
3. In the case of Bangladesh Development Bank Ltd., Investment Corporation of Bangladesh and any commercial bank including Bangladesh Krishi Bank and Rajshahi Krishi Unnayan Bank, the income by way of interest in relation to such categories of bad and doubtful debt as the Bangladesh Bank may classify, shall be taxed in the income year in which it is credited to the profit and loss account or in the income year in which it is actually received, whichever is earlier. [Sec 28(3)]

Example:

ABC Bank Ltd., a bank incorporated in Bangladesh, has submitted the following audited income statement showing profit before tax of TK 258,000 for the income year 2016-17. You have been provided with the notes supporting the figures to compute the tax liability of the bank for the respective assessment year:

Chapter – 18C: Assessment of Companies

	Tk.	Tk.
Interest Income		650,000
Interest Paid on Deposits & Borrowings etc.		<u>200,000</u>
		450,000
Net Interest Income		100,000
Income from investments		60,000
Commission, Exchange and Brokerage		<u>81,000</u>
Other Operating Income (20+61)		691,000
Total Operating Income (A)		
<i>Less: Operating Expenses</i>		
Payment to Employees	215,000	
Postage and Telegrams	5,000	
Rent, Rates & Insurance, etc.	11,000	
Legal Charges	2,000	
Directors' Fees	2,000	
Auditors' Fees	1,000	
Repairs to Premises	60,000	
Stationery, Printing and Advertisements	72,000	
Stamps	3,000	
Charges on Loan Losses	5,000	
Other Expenses of Business	<u>15,000</u>	
Total Operating Expenses (B)		<u>391,000</u>
Profit / (Loss) before Provision (C=A-B)		300,000
<i>Provisions:</i>		
Specific Provision	12,000	
General Provision	<u>30,000</u>	
Total Provision (D)		<u>42,000</u>
Total Profit / (Loss) before Taxes (C-D)		<u>258,000</u>

Supporting Information:

- Accounting depreciation charged was Tk. 50,000 whereas tax depreciation is Tk. 80,000.
- Inadmissible expenses have been found as follows:

Perquisites	Tk. 50,000
Printing and Advertisement (capital nature)	40,000
Other expenses (tax is not deducted at sources)	10,000
- Balance Sheet (extract):

Paid up Capital	Tk. 2,000,000
Statutory Reserve	750,000
Retained Earnings	250,000
Dividend Equalization Fund	200,000
- Classification of Loans and Advances:

Unclassified	Tk. 2,100,000
Sub-standard	850,000
Doubtful	1,145,000
Bad/Loss	10,250,000
- Entertainment Expenses amounts to Tk. 65,000 for the period.

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Solution:

ABC Bank Limited		
Assessment Year: 2017 – 2018		
Computation of Taxable Income and Tax Liability		
	Taka	Taka
Net Profit as per audited accounts		258,000
Less: Income to be considered separately		
Income from Investment		100,000
Add: Expenses to be considered separately		158,000
Accounting Depreciation	50,000	
Provision for Bad and Doubtful Debt	42,000	
Entertainment Expenses	65,000	157,000
Add: Inadmissible Expenses		
Perquisites	50,000	
Printing and Advertisement	40,000	
Other Expenses	10,000	100,000
		415,000
Less: Expenses admissible but under separate rates		
Tax Depreciation	80,000	
Provision for Bad and Doubtful Debt (Note 1)	42,000	122,000
		293,000
Add: Income from Investments		100,000
		393,000
Less: Entertainment Expenses (Note 2)		15,720
Total Taxable Income		377,280

Calculation of Tax Liability:

Net Tax Liability	Tk. 377,280 @ 40%	Tk. <u>150,912</u>
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Notes:

1. Total loans outstanding irrespective of classifications amounted to Tk. 14,345,000. Thus, 1% of the loan amounts to 143,450. But, actual provision made amounts to Tk. 42,000 which is less and therefore allowed.
2. The rate for allowable entertainment expenses is 4% on income of first Tk. 1,000,000 and 2% on rest, if any. Thus, in this case entertainment expense will be Tk. 15,720 (4% of Tk. 393,000).

Answers:

Multiple choice questions		True/False
1. d	6. a	1. F
2. d	7. d	2. F
3. c	8. b	3. T
4. a	9. d	4. F
5. b	10. b	5. T

Self review 18C – 1:

75% of total assessed income is : Tk. 285,000
 Advance Tax + TDS (Tk. 120,000 + Tk. 32,000) : Tk. 152,000
 Shortfall: Tk. 285,000 – Tk. 152,000 : Tk. 133,000
 Interest required to be paid: 10% of Tk. 133,000 : Tk. 13,300

Self review 18C – 2:

- ABC plc is required to pay additional tax at the rate of five per cent on the undistributed profit in addition to tax payable under IT Ordinance.
- XYZ Banking Company shall pay an excess profit tax for that year at the rate of fifteen per cent on so much of profit as it exceeds fifty per cent of the aggregate sum of the capital and reserve.

CHAPTER – 19

PENALTY AND APPEAL

LEARNING OBJECTIVES

After studying Chapter 19, you shall be able to understand:

- ⊕ the penalty provisions for non compliance with different laws of income tax
- ⊕ ground for appeal
- ⊕ procedure, form and limitation of appeal
- ⊕ appeal to appellate tribunal
- ⊕ reference and decision of the high court division
- ⊕ appeal to the appellate division

In most of the developing countries of the world, tax evasion is one of the most important obstacles for the revenue authorities to meet the revenue target. Some dishonest taxpayers' always try to evade taxes using many types of mechanisms including the loopholes of the existing tax laws of the country. Unlike other countries, in Bangladesh certain penalty provisions have been incorporated in the Income Tax Ordinance, 1984 in order to tackle the tax evasion practice. An aggrieved assessee also has the right to appeal against the order of any tax officials. "Penalty" is punishment for breach of law. Where a statute requires any person to do a particular thing and he fails to do so, he renders himself liable to penalty. Similarly, when the statute requires any person not to do a particular thing and he does so, he exposes himself to penalty. The nature and quantum of penalty differs from statute to statute and from default to default.

19.1 PENALTY PROVISIONS

If the assessee does not comply with any provisions under the Income Tax Ordinance, 1984 applicable for him/her, then according to the same ordinance he/she is supposed to be penalized for such kind of non-compliance. In the ITO, 1984, Section 123 to 133 explains how much penalty should be imposed upon an assessee for a specific nature of non-compliance.

Sections	Reasons to impose penalty
123	Penalty for not maintaining accounts in the prescribed manner
124	Penalty for failure to file return, etc.
124A	Penalty for using fake Tax-payer's Identification Number
124AA	Penalty for failure to verify TIN
125	Failure to pay advance tax, etc.
126	Penalty for non compliance with notice
127	Failure to pay tax on the basis of return
128	Penalty for concealment of income
129A	Penalty for incorrect or false audit report by chartered accountant
129B	Penalty for furnishing fake audit report
130	Bar to imposition of penalty without hearing
131	Previous approval of Inspecting Joint Commissioner for imposing penalty
132	Orders of Appellate Joint Commissioner, etc., to be sent to DCT
133	Penalty to be without prejudice to other liability

19.1.1 Penalty for not maintaining accounts in the prescribed manner [Section 123]: Where any person not having income from house property, has, without reasonable cause, failed to comply with provisions of any order or rule made in pursuance of, or for the purposes of section 35(2), the DCT may impose upon him a penalty of a sum –

- (a) Maximum 1 ½ times of his/her tax liability payable; and
- (b) Where the total income of such person does not exceed the maximum amount on which tax is not chargeable, maximum amount of penalty will be Tk. 100.

Under above circumstances, for any person, having income from house property, the penalty will be fifty percent of taxes payable on house property income or Tk. 5,000 whichever is higher.

19.1.2 Penalty for failure to file return, etc. [Section 124]

- ❖ **Failure to file or furnish a return:** Where any person has, without reasonable cause, failed to file or furnish a return of income required by or under sections 75, 77, 89(2), 91(3), 93(1) and or withholding tax required under section 75A within the time laid down therefore, the DCT shall impose upon such person a penalty amounting to 10% of tax imposed on last assessed income, but such penalty cannot be less than Tk. 1,000 and in the case of a continuing default a further penalty of Tk. 50 for every day during which the default continues.

Provided that such penalty shall not exceed-

- (a) *in case of an assessee, being an individual, whose income was not assessed previously five thousand taka;*
- (b) *in case of an assessee, being an individual, whose income was assessed previously, fifty per cent (50%) of the tax payable on the last assessed income or taka one thousand, whichever is higher.*
- ❖ **Failure to file or furnish or obtain and display of certificate:** On the other hand where any person has, without reasonable cause, failed to file or furnish or obtain and display the followings within the stipulated time period, a penalty will be imposed by the DCT of Tk. 500 and in case of continuing default a further penalty of Tk. 250 for every month or fraction thereof during which the default continues.
 - (a) any certificate, statement, accounts or information required by or under sections 58, 108, 109, 110; or
 - (b) the tax-payer's identification number (TIN) certificate under section 184C.
- ❖ **Failure to furnish information:** In addition to the above measures, it is provided that the Director General, Central Intelligence Cell or the DCT may impose a penalty of Tk. 25,000 if any person has, without reasonable cause, failed to furnish information as required under Section 113. An additional penalty of Tk. 500 for each day will be imposed if that default continues.

19.1.3 Penalty for using fake Tax-payer's Identification Number (TIN) [Section 124A]: Where a person has, without reasonable cause, used TIN of another person or used fake TIN on a return of income or any other documents where TIN is required under ITO, 1984, the DCT may impose a penalty not exceeding Tk. 20,000 on that person.

19.1.4 Penalty for failure to verify TIN [Section 124AA]: Where a person, without reasonable cause, fails to comply with the provision of sub-section (5) or (6) of section 184A, the Deputy Commissioner of Taxes or any other income tax authority authorized by the Board for this purpose may impose upon such person a penalty not exceeding -

- (a) Tk. 200,000 in the case of non-compliance with the provision of sub-section (5);
- (b) Tk. 50,000 in the case of noncompliance with the provision of sub-section (6)

19.1.5 Failure to pay advance tax, etc. [Section 125]: Where, in the course of any proceeding in connection with the assessment of tax, the Deputy Commissioner of Taxes is satisfied that any person has (i) without reasonable cause, failed to pay advance tax as required by section 64; or (ii) furnished untrue estimate of tax payable under section 67, he may impose upon such person a penalty of not more than the amount by which the tax actually paid by him falls short of the amount that should have been paid.

Example: If someone is supposed to pay advance tax of Tk. 60,000, but has paid only Tk. 30,000. His penalty for such failure can be at best Tk. 30,000 [Tk. 60,000 – Tk. 30,000].

19.1.6 Penalty for non-compliance with notice [Section 126]: Where any person has, without reasonable cause, failed to comply with any notice issued under Sections 79, 80 or under sub-section (1) or (2) of Section 83, the DCT may impose on him a penalty not exceeding the amount of tax chargeable on the total income of such person.

19.1.7 Failure to pay tax on the basis of return [Section 127]: According to Section 127 of the Income Tax Ordinance, 1984, where, in the course of any proceeding under this Ordinance, the Deputy Commissioner of Taxes is satisfied that any person has not paid tax as required by Section 74, he may impose upon such person a sum not exceeding 25% of the whole of the tax or as the case may be, of such portion of the tax as has not been paid.

19.1.8 Penalty for concealment of income [Section 128]: According to Section 128 of the ITO, 1984, where, in the course of any proceeding under this Ordinance, the DCT, the Appellate Joint Commissioner, the Commissioner (Appeals) or the Appellate Tribunal is satisfied that any person has, either in the said proceeding or in any earlier proceeding relating to an assessment in respect of the same income year – (a) concealed particulars of his income or furnished inaccurate particulars of such income; or (b) understated the value of any immovable property in connection with its sale or transfer with a view to evading tax, he or it shall impose upon such person a penalty of 15% of tax which would have been avoided had the income as returned by such person or as the case may be, the value of the immovable property as stated by him been accepted as correct:

Provided that if the concealment referred to in clause (a) and (b) of this sub-section or subsection (2) is detected after a period of more than one year from the year in which the concealment was first assessable to tax, the amount of penalty shall increase by an additional 15% for each preceding assessment year. For the purpose of above rule, concealment of or furnishing of inaccurate particulars of income shall include –

- (a) the suppression of any item of receipt liable to tax in whole or in part, or
- (b) showing any expenditure not actually incurred or claiming any deduction therefore.

19.1.9 Penalty for incorrect or false audit report by chartered accountant [Section 129A]: Where, in the course of any proceeding under this Ordinance, the Deputy Commissioner of Taxes, the Appellate Joint Commissioner, the Commissioner of Taxes (Appeals) or the Appellate Tribunal is satisfied beyond reasonable doubt that the audit report –

- (a) is not certified by a chartered accountant to the effect that the accounts are maintained and the statements are prepared and reported in accordance with the Bangladesh Accounting Standards (BAS) and the Bangladesh Financial Reporting

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Standards (BFRS), and are audited in accordance with the Bangladesh Standards on Auditing (BSA), or

(b) is false or incorrect,

he shall impose upon such chartered accountant a penalty of a sum not less than Tk. 50,000 but not more than Tk. 200,000.

19.1.10 Penalty for furnishing fake audit report [Section 129B]:

Where, in the course of any proceeding under this Ordinance, the DCT, the Appellate Joint Commissioner, the Commissioner (Appeals) or the Appellate Tribunal is satisfied beyond reasonable doubt that any audit report furnished by an assessee along with the return of income or thereafter for any income year is not signed by a chartered accountant or is believed to be false, such authority or the Tribunal, as the case may be, shall impose upon such assessee a penalty of a sum of one lakh taka for that income year.

19.1.11 Bar to imposition of penalty without hearing [Section 130]: No order imposing a penalty under this Chapter or Chapter XIA shall be made on any person unless such person has been heard or has been given a reasonable opportunity of being heard.

19.1.12 Previous approval of Inspecting Joint Commissioner for imposing penalty [Section 131]: According to Section 131 of the ITO, 1984, the DCT shall not impose any penalty under this Chapter without the previous approval of the Inspecting Joint Commissioner except in the cases of penalty for failure to file return, etc. (U/s 124).

19.1.13 Orders of Appellate Joint Commissioner, etc., to be sent to Deputy Commissioner of Taxes [Section 132]: The Appellate Joint Commissioner or the Commissioners (Appeals) or the Appellate Tribunal or any other income tax authority making an order imposing any penalty under this Chapter or Chapter XIA shall forthwith send a copy of the order to the Deputy Commissioner of Taxes, and thereupon all the provisions of this Ordinance relating to the recovery of penalty shall apply as if such order were made by the Deputy Commissioner of Taxes.

19.1.14 Penalty to be without prejudice to other liability [Section 133]: According to Section 133 of the ITO, 1984, the imposition of penalty on any person under this Chapter shall be in addition to any other liability which such person may incur, or may have incurred, under this Ordinance or under any other law for the time being in force.

19.1.15 Revision of penalty based on the revised amount of income [Section 133A]: According to Section 133A, Where a penalty imposed under this Chapter is directly related to the amount of income assessed under the provision of this Ordinance and the amount of income is revised subsequently by an order made under this Ordinance, the Deputy Commissioner of Taxes shall pass an order revising the order of penalty at the time of revising the income. No order of enhancement of penalty shall be made unless the parties affected thereby have been given a reasonable opportunity of being heard.

Where, in the case mentioned in sub-section (1), an order of the revision of penalty is not issued despite the fact that the relevant assessment order has been revised, the parties affected can make an application to the DCT requesting the revision of the penalty amount and if no order has been made by within 180 days from the receipt of such application, the amount of penalty shall be deemed to have been revised according to the revised amount of income and all the provisions of this Ordinance shall have effect accordingly.

SELF REVIEW 19 – 1

Mr. Shafiq Ahmed is a resident assessee and paid Tk. 22,000 income tax for the income year 2015 – 2016. His tax payable income for the income year 2016 – 2017 is Tk. 450,000. Suppose, in this year last date to file return of income was 30th November, 2017 and Mr. Ahmed failed to file return of income till 4th December, 2017. Now as an income tax practitioner informs the penalty provisions applicable for Mr. Ahmed and also the amount of penalty he is supposed to pay for his failure.

19.2 PROVISIONS OF APPEAL

The term “appeal” has been defined in the Law Dictionary by Sweet as “a proceeding taken to rectify an erroneous decision of a court by submitting the question to a higher court or court of appeal”. It embraces all proceedings whereby a superior court is called upon to review, revise, affirm, reverse or modify the decision of an inferior court.

There is no inherent right of appeal. If a right of appeal is not given by the statute, no appeal would lie [CIT vs. Garware Nylons 212 ITR 242]. The income tax law has specifically granted the right of appeal. When an assessee is not satisfied with the order of a DCT or any other tax officer, he/she may prefer an appeal to the concerned higher administrative authorities against such order, in accordance with the relevant provisions. The order of the administrative authorities i.e. Commissioner (Appeal) is further appealable. The aggrieved party (i.e. the assessee or the income tax authority) may appeal against such order to the Appellate Tribunal. Thereafter, the appeal lies to High Court Division on a point of law. The order of the High Court is appealable to the Appellate Division of the Supreme Court which is the final authority. The whole subject matter pertaining to appeals as per the provisions of the ITO, 1984, is discussed below:

Section	Subject
153	Ground for appeal
154	Form of appeal and limitation
155	Procedure in appeal
156	Decision in appeal
157	Appeal against order of Tax Recovery Officer
158	Appeal to the Appellate Tribunal
159	Disposal of appeal by the Appellate Tribunal
160	Reference to the High Court Division
161	Decision of the High Court Division
162	Appeal to the Appellate Division

19.2.1 Ground for appeal [Section 153]: An assessee being a company or not being a company may prefer an appeal to the Appellate JCT when they are not satisfied with the order of the DCT. Followings are the ground that permits an assessee to appeal.

❖ **Assessee not being a company:**

Any assessee, not being a company, aggrieved by any order of a DCT may prefer an appeal to the Appellate JCT against such order in respect of the followings [section 153(1)]–

- (a) the amount of loss computed under section 37 (i.e., set off losses);
- (b) assessment of income, determination of liability to pay, or computation of tax including advance tax;

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- (c) imposition of an interest under Chapter VII (i.e., interest payable by the assessee on deficiency in payment of advance tax);
- (d) imposition of penalty under Chapters XIA, XV and (section 137) of Chapter XVI ; and
- (e) refusal to allow a claim to a refund or the determination of the amount of refund admissible under Chapter XVIII.

Against whose orders and to whom the assessee and the income tax authority may appeal can be depicted as follows on the basis of the provisions of the ITO, 1984:					
Section	Who can file the appeal	Against whose orders appeal can be made/filed	To whom appeal can be made/filed	Time limit to file the appeal	Required fee to apply
153(1)	Any assessee, not being a company	Deputy Commissioner of Taxes	Appellate Joint Commissioner	45 days (extendable in valid grounds)	10% of the tax determined by the DCT & Tk. 200
153(1A)	Company or any assessee	Deputy Commissioner of Taxes; Inspecting Joint Commissioner	Commissioner of Taxes (Appeals)	45 days (extendable in valid grounds)	Tk. 200
157	Assessee	Tax Recovery Officer	Inspecting Joint Commissioner	30 days	N/A
158	Assessee / The DCT	Appellate Joint Commissioner; Commissioner of Taxes (Appeals)	Appellate Tribunal	60 days (extendable in valid grounds)	10% of the differential tax amount & Tk. 1,000
160	Assessee / The Commissioner	Appellate Tribunal	High Court Division	90 days	Tk. 2,000
162	Assessee / The Commissioner	High Court Division	Appellate Division	N/A	N/A

❖ **In case of a company:**

According to Section 153 (1A) of the ITO, 1984, any assessee, being a company aggrieved by any order of a DCT or any assessee aggrieved by any order of an IJCT may prefer an appeal to the Commissioner (Appeals) in respect of the followings –

- (a) any matter specified in clauses (a), (b), c) and (f) of sub-section (1);
- (b) imposition of penalty under Chapter XV or XIA or section 137;
- (c) assessment under section 10 or 120;

Notwithstanding anything contained in any other law for the time being in force, all such appeals pending before an Appellate Joint Commissioner at the time of the commencement of the Finance Act 1990, as are appealable under this section to a Commissioner (Appeals)

shall be heard and disposed of by the Appellate Joint Commissioner as if this section were not amended by the Finance Act 1990 [Sec 153(1B)]. Notwithstanding anything contained in sub-section (1) or (1A), the Board may, on an application or on its own motion, transfer an appeal from an Appellate Joint Commissioner to a Commissioner (Appeals) or from a Commissioner (Appeals) to an Appellate Joint Commissioner [Section 153(1C)].

Where the partners of a firm are individually assessable on their shares in the total income of the firm, any such partner may appeal to the Appellate Joint Commissioner against the order of the DCT determining the amount of total income or loss of the firm or the apportionment thereof between several partners but he may not agitate in any such appeal, matters relating to assessment of his own total income [Section 153(2)].

No appeal shall lie against any order of assessment under this section, unless the tax payable on the basis of return under section 74 has been paid [Section 153 (3)]. *Provided that where the tax on the basis of return has been paid by the appellant before filing the appeal and the Appellate Joint Commissioner or the Commissioner (Appeals), as the case may be, is convinced that the appellant was barred by sufficient reason from paying the tax before filing the return, Appellate JC or the Commissioner (Appeals) may allow the appeal for hearing.* No appeal shall lie against any order of assessment under this section, unless the assessee has paid ten percent of the tax as determined by the DCT where return of income was not filed in accordance with the provisions of this Ordinance [Section 153 (4)].

19.2.2 Form of Appeal and Limitation [Section 154]: Every appeal under Section 153 shall be drawn up in such form and verified in such manner as may be prescribed and shall be accompanied by a fee of Tk. 200 [sec. 154(1)]. According to section 154(1A), The Board may, by notification in the official Gazette-

- (a) specify the cases in which the appeal shall be filed electronically or in any other machine readable or computer readable media;
- (b) specify the form and manner in which such appeal shall be filed.

An appeal shall be presented within 45 days-

- (a) if it relates to any assessment or penalty, from the date of service of the notice of demand relating to any assessment or penalty, as the case may be; and
- (b) in any other case, from the date on which the intimation of the order to be appealed against is served.

But the Appellate JC or the Commissioner (Appeals) as the case may be, may admit an appeal after the expiration of the period of limitation if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within that period.

19.2.3 Procedures in Appeal [Section 155]: When an assessee files an appeal before the Appellate Joint Commissioner (JC) or the Commissioner (Appeals), a day and place shall be fixed for the hearing of the appeal. A notice with these information thereof shall be given to the appellant and the DCT against whose order the appeal has been preferred. The appellant and the DCT shall have the right to be heard at the hearing of the appeal either in person or by a representative. The Appellate JC or the Commissioner (Appeals) may, if necessary, can adjourn the hearing of the appeal from time to time and may, before or at the hearing of an appeal, allow the appellant to go into any ground of appeal not earlier specified in the grounds of appeal already filed if he is satisfied that the omission of that

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ground from the form of appeal was not willful or unreasonable. The Appellate JC or the Commissioner (Appeals) may, before disposing of an appeal, make such enquiry as he thinks fit or call for such particulars as he may require respecting the matters arising in appeals or cause further enquiry to be made by the DCT. While hearing an appeal the Appellate JC or the Commissioner (Appeals) shall not admit any documentary material or evidence which was not produced before the DCT unless he is satisfied that the appellant was unable to present the documents for valid reasons.

19.2.4 Decision in Appeal [Section 156]: In disposing of an appeal, the Appellate Joint Commissioner or the Commissioner (Appeals) may, in case of

- (1) an order of assessment: confirm, reduce, enhance, set aside or cancel the assessment;
- (2) an order imposing a penalty: confirm, set aside or cancel such order or vary it so as either to enhance or to reduce the penalty; and
- (3) any other case, pass such order as he thinks fit:

Provided that an order of assessment or penalty shall not be set aside except in a case where the Appellate JCT or the Commissioner (Appeals) is satisfied that a notice on the assessee has not been served in accordance with the provisions of section 178. The Appellate JCT or the Commissioner (Appeals) shall not enhance an assessment or a penalty or reduce the amount of refund unless the appellant has been given a reasonable opportunity of showing cause against such enhancement or reduction [Section – 156(2)]. The order of the Appellate Joint Commissioner [or the Commissioner (Appeals)] disposing of an appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision [Section – 156(3)]. Where, as a result of an appeal, any change is made in the assessment of a firm or an association of persons, the Appellate JC/the Commissioner (Appeals) may direct the DCT to amend accordingly any assessment made on any partner of the firm or any member of the association [Section – 156(4)].

On the disposal of an appeal, the Appellate Joint Commissioner [or the Commissioner (Appeals)] shall communicate the order passed by him to the appellant, the DCT and the Commissioner within 30 days of the passing of such order [Section – 156(5)]. Notwithstanding anything contained in this Ordinance, an appeal to the Appellate Joint Commissioner or the Commissioner (Appeals) shall be deemed to have been allowed if the Appellate JC or the Commissioner (Appeals) fails to make an order thereon within 150 days from the from the end of the month on which the appeal was filed [Section – 156(6)].

19.2.5 Appeal against order of Tax Recovery Officer [Section 157]: Any person aggrieved by an order of the Tax Recovery Officer under section 139 may, within 30 days from the date of service of the order, appeal to the Inspecting Joint Commissioner to whom the Tax Recovery Officer is subordinate, and the decision of the IJCT on such appeal shall be final.

19.2.6 Appeal to the Appellate Tribunal [Section 158]: The provisions regarding the appeal to the Appellate Tribunal are as follows:

Ground and limitation for appeal:

- ❖ *Appeal made by an assessee:* An assessee may appeal to the Appellate Tribunal if he is aggrieved by an order of an Appellate Joint Commissioner or the Commissioner (Appeals) as the case may be, under Section 128 or 156 [section – 158(1)].
- ❖ *Appeal made by the Deputy Commissioner of Taxes:* The Deputy Commissioner of Taxes may, with the prior approval of the Commissioner of Taxes, prefer an appeal

to the Appellate Tribunal against the order of an Appellate Joint Commissioner, or the Commissioner (Appeals) u/s - 156 [section – 158(2A)].

Procedures in filling an appeal:

Every appeal under sub-section (1) or sub-section (2A) shall be filed within **60 days** of the date on which the order sought to be appealed against is communicated to the assessee or to the Commissioner, as the case may be [Section – 158(4)]. Provided that the Appellate Tribunal may admit an appeal after the expiry of 60 days if it is satisfied that there was sufficient cause for not presenting the appeal within that period.

But no such appeal shall lie against an order of the Appellate Joint Commissioner or the Commissioner (Appeals), as the case may be, unless the assessee has paid 10% of the amount representing the difference between the tax as determined on the basis of the order of the Appellate Joint Commissioner or the Commissioner (Appeals) as the case may be, and the tax payable under section 74. The Commissioner of Taxes may reduce the payment in reasonable ground against the application of the assessee. An appeal to the Appellate Tribunal shall be in such form and verified in such manner as may be prescribed and shall except in the case of an appeal under sub-section (2A) be accompanied by a fee of Tk. 1,000. According to section 158(6), The Board may, by notification in the official Gazette-

- (a) specify the cases in which the appeal shall be filed electronically or in any other machine readable or computer readable media;
- (b) specify the form and manner in which such appeal shall be filed.

19.2.7 Disposal of appeal by the Appellate Tribunal [Section 159]: The Appellate Tribunal follows the following procedures to dispose of an appeal filed by the aggrieved parties.

- (1) The Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders on the appeal as it thinks fit [Section 159 (1)].
- (2) Before disposing of any appeal, the Appellate Tribunal may call for such particulars as it may require respecting the matters arising in the appeal or cause further enquiry to be made by the DCT [Section 159(2)].
- (3) Where, an appeal results any change in the assessment of a firm or association of persons, or a new assessment of a firm or association of persons is ordered to be made, the Appellate Tribunal may direct the DCT to amend accordingly any assessment made on any partner of the firm or any member of the association.
- (4) The Appellate Tribunal shall communicate its order on the appeal to the assessee and to the Commissioner within **30 days** from the date of such order [Section 159(4)].
- (5) Save as hereafter provided in this Chapter, the orders passed by the Appellate Tribunal on appeal shall be final [Section 159(5)].
- (6) Notwithstanding anything contained in this Ordinance an appeal filed by an assessee to the Appellate Tribunal (AT) shall be deemed to have been allowed if the AT fails to make an order thereon within a period of **6 months** from the end of the month in which the appeal was filed and where a case is heard by two members and an additional member is appointed for hearing the case because of the difference of decision of the two members, the period shall be **8 months** from the end of the month in which the appeal was filed subject to some conditions provided [Sec 159(6)].

19.2.8 Reference to the High Court Division [Section – 160]: According to Section 160 of the ITO, 1984, the assessee or the Commissioner may refer to the High Court Division if

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any question of law arises out of the order of the Appellate Tribunal. The provisions regarding the reference to the High Court Division are as follows:

1. The assessee or the Commissioner may, within **90 days** from the date of receipt of the order of the Appellate Tribunal communicated to him under section 159, by application in the prescribed form, accompanied, in the case of an application by the assessee, by a fee of Tk. 2,000, refer to the High Court Division any question of law arising out of such order. Before filing the appeal the assessee has to pay 15% of the differential amount specified by the ITO, 1984 where tax demand does not exceed 10 lakh taka. The requirement is 25% where tax demand exceeds Tk. 10 lakh.
2. An application under sub-section (1) shall be in triplicate and shall be accompanied by the following documents, namely:-
 - (a) certified copy, in triplicate, of the order of the Appellate Tribunal out of which the question of law has arisen;
 - (b) certified copy, in triplicate, of the order of the DCT, the IJCT or the Appellate Joint Commissioner, or the Commissioner (Appeals) as the case may be, which was the subject-matter of appeal before the Appellate Tribunal; and
 - (c) certified copy, in triplicate, of any other document the contents of which are relevant to the question of law formulated in the application and which was produced before the DCT, the IJCT, the Appellate Joint Commissioner or the Commissioner (Appeals) or the Appellate Tribunal, as the case may be, in the course of any proceedings relating to any order referred to in clause (a) or (b).
3. Where the assessee is the applicant, the Commissioner shall be made a respondent; and where the Commissioner is the applicant the assessee shall be made a respondent. Provided that where an assessee dies or is succeeded by another person or is a company which is being wound up, the application shall not abate and may, if the assessee was the applicant, be continued by, and if he was the respondent, be continued against, the executor, administrator/successor/other legal representative of the assessee, or by or against the liquidator or receiver, as the case may be.
4. On receipt of the notice of the date of hearing of the application, the respondent shall, at least seven days before the date of hearing, submit in writing a reply to the application; and he shall therein specifically admit or deny whether the question of law formulated by the applicant arises out of the order of the Appellate Tribunal.
5. If the question formulated by the applicant is, in the opinion of the respondent, defective, the reply shall state in what particulars the question is defective and what is the exact question of law, if any, which arises out of the said order; and the reply shall be in triplicate and be accompanied by any documents which are relevant to the question of law formulated in the application and which were produced before the DCT, the Inspecting Joint Commissioner, the Appellate Joint Commissioner, the Commissioner (Appeals) or the Appellate Tribunal, as the case may be in the course of any proceedings relating to any order referred to in sub-section (2) (a) or (b).
6. Section 5 of the Limitation Act, 1908 (IX of 1908) shall apply to an application under sub-section (1).

19.2.9 Decision of the High Court Division (Section – 161): The High Court Division gives its decision regarding the reference sent to it for the clarification of any question of law arising out of the order of the Appellate Tribunal. In this regard the following procedures are followed:

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1. Where any case has been referred to the High Court Division under Section 160, it shall be heard by a bench of not less than two judges and the provisions of Section 98 of the Code of Civil Procedure 1908 (V of 1908), shall, so far as may be, apply in respect of such case.
2. The High Court Division shall, upon hearing any case referred to it under Section 160, decide the question of law raised thereby and shall deliver its judgment thereon stating the grounds on which such decision is founded and shall send a copy of such judgment under the seal of the Court and signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case in conformity with the judgment.
3. The costs in respect of a reference to the High Court Division under Section 160 shall be in the discretion of the Court.
4. Notwithstanding that a reference has been made under Section 160 to the High Court Division, tax shall be payable in accordance with the assessment made in the case unless the recovery thereof has been stayed by the High Court Division.

SELF REVIEW 19 – 2

Identify in what points appeal to the Appellate Joint Commissioner of taxes are similar to appeal to the Appellate Tribunal. Also state how these two appeal procedure differs.

19.2.10 Appeal to the Appellate Division [Section 162]: According to Section 162 of the ITO, 1984, an appeal can be filed against the judgment of the High Court Division, subject to the following provisions:

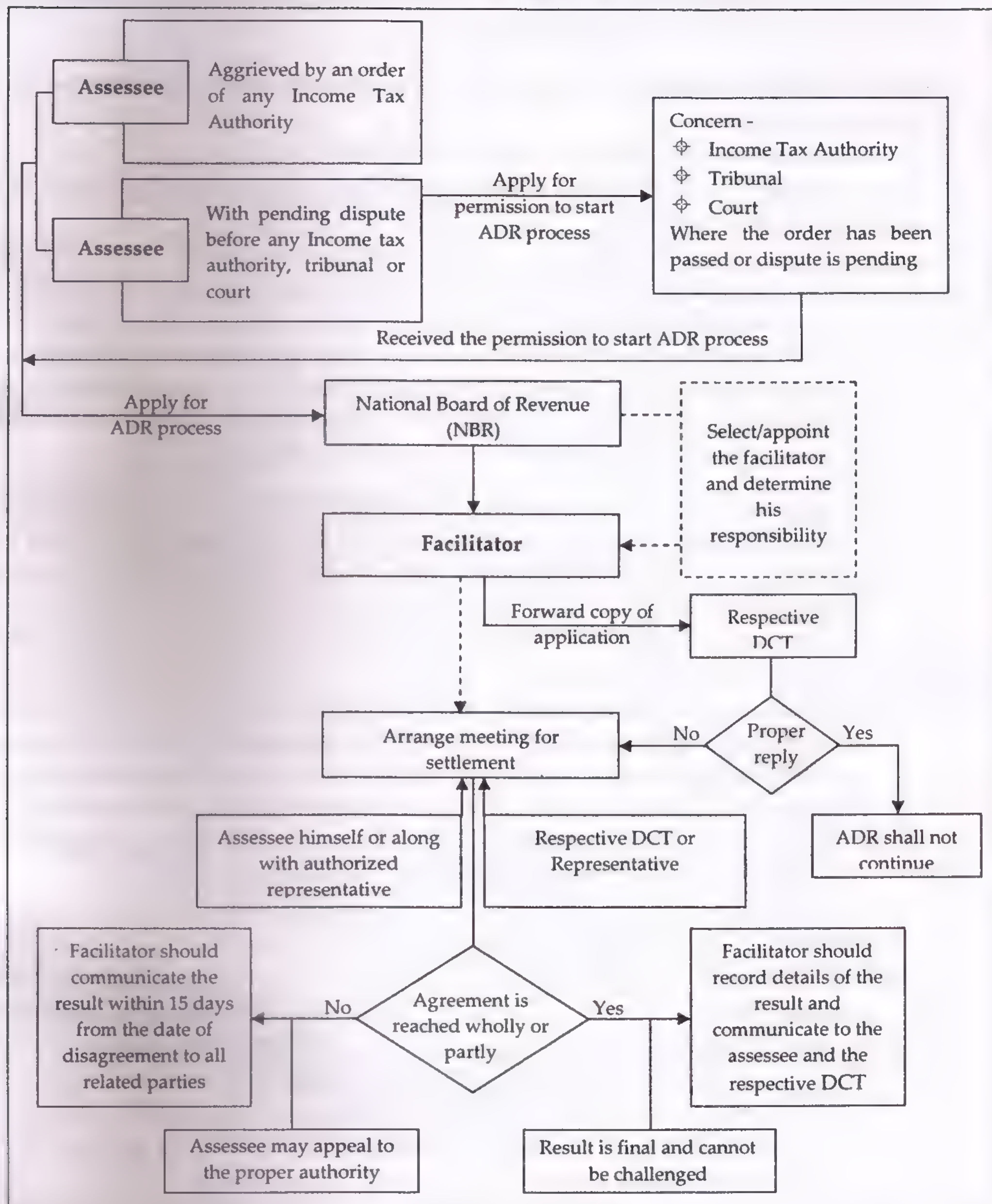
1. An appeal shall lie to the appellate division from any judgment of the High Court Division delivered under Section 161 in any case which the High Court Division certifies to be a fit one for appeal to the Appellate Division.
2. The provisions of the Code of Civil Procedure, 1908 (Act V of 1908), relating to appeals to the Appellate Division shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of the High Court Division. Provided that nothing in this sub-section shall be deemed to affect the provision of Section 161 (2) or (4). Provided further that the High Court Division may, on petition made for the execution of the order of the Appellate Division in respect of any costs awarded thereby, transmit the order for execution to any Court subordinate to the High Court Division.
3. Where the judgment of the High Court Division is varied or reversed in appeal under this section, effect shall be given to the order of the Appellate Division in the manner provided in section 161 (2) and (4) regarding such judgment.
4. The provisions of sub-section (3) and sub-section (4) of section 161 relating to costs and payment of tax shall apply in the case of an appeal to the Appellate Division as they apply to a reference to the High Court Division u/s - 160.

19.3 ALTERNATIVE DISPUTE RESOLUTION [SECTION 152F]

Finance Act 2011 introduced a new chapter titled Chapter XVIII B Alternative Dispute Resolution to resolve any dispute of an assessee lying with any income tax authority, Taxes Appellate Tribunal or Court. The provisions are as follows:

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ADR Process Flowchart



19.3.1 Alternative Dispute Resolution [Section 152F]: Notwithstanding anything contained in Chapter XIX (Appeal and Reference) any dispute of an assessee lying with any income tax authority, Taxes Appellate Tribunal or Court may be resolved through Alternative Dispute Resolution (hereinafter referred to as ADR) in the manner described in the following sections of this Chapter and rules made thereunder. Board may, by notification in the official Gazette, specify the class or classes of assessees eligible for ADR or extend the area or areas in which these provisions may be applied.

19.3.2 Commencement of ADR [Section 152G]: The ADR as mentioned in this Chapter shall come into force on such date and in such class or classes of assesses as the Board may determine by notification in the official Gazette.

19.3.3 Definition [Section 152H]: For the purposes of this Chapter, unless the context otherwise requires

- (a) "bench" means bench of Taxes Appellate Tribunal;
- (b) "authorised representative" means an authorized representative mentioned in sub-section (2) of section 174;
- (c) "Commissioner's Representative" means an officer(s) nominated by the CT from the income tax authorities u/s 3 to represent in the ADR process under this Chapter;
- (d) "court" means the Supreme Court;
- (e) "dispute" means an objection of an assessee regarding assessment of income above the income declared by him in his return of income for the relevant year, or order of an appellate authority under chapter XIX which results in assessment of income which is above the declared amount in his return of income;

19.3.4 Application for alternative resolution of disputes [Section 152I]:

- (1) Notwithstanding anything contained in Chapter XIX an assessee, if aggrieved by an order of an income tax authority, may apply for resolution of the dispute through the ADR process. The form of application for ADR is prepared as per Rule 27C.
- (2) An assessee may apply for ADR of a dispute which is pending before any income-tax authority, tribunal or court.
- (3) All cases dealt with under sub-section (2) are subject to permission of the concerned income tax authority/tribunal/the court, as the case may be. *Provided, after obtaining such permission from the income tax authority, Tribunal or the court and upon granting of such permission, the matter shall remain stayed during the ADR negotiation process.*
- (4) The application shall be submitted in such form, within such time, accompanied with such fees and verified in such manner as may be prescribed.
- (5) The application is to be submitted to the respective Appellate JCT or Appellate Additional CT or CT (Appeals) or Taxes Appellate Tribunal, as the case may be.
- (6) The application may also be filed in such electronic, computer readable or machine readable form and in such manner as may be specified in written order by the Board.
- (7) In the case of a dispute pending before either Division of the Supreme Court, the assessee shall obtain the permission of the court prior to filing an application under sub-section (2), by filing an application before the court which, upon such an application being made before it, may pass an order allowing the matter to proceed to ADR, or otherwise as it deems fit.

19.3.5 Stay of proceeding in case of pending appeal or reference at Appellate Tribunal or High Court Division [Section 152II]: Where an assessee has filed an application for ADR for any income year and for the same income year, the DCT has filed an appeal before the Appellate Tribunal or the Commissioner has made a reference before the High Court Division and no decision has been made in that respect by the Appellate Tribunal or High Court Division as the case may be, the proceeding of such appeal or reference shall remain stayed till disposal of the application for ADR.

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19.3.6 Eligibility for application for ADR [Section 152J]: An assessee shall not be eligible for application to ADR if he fails to pay tax payable under section 74 where the return of income for the relevant year or years has been submitted.

19.3.7 Appointment of Facilitator and his duties and responsibilities [Section 152K]: For the purposes of resolving a dispute in an alternative way, the Board may select or appoint Facilitator and determine his fees, duties and responsibilities by rules.

19.3.8 Rights and duties of the assessee for ADR [Section 152L]: Subject to subsection (2), the assessee applying for ADR shall be allowed to negotiate himself personally or along with an authorized representative, with the Commissioner's Representative for the concerned dispute under the facilitation and supervision of the Facilitator. The Facilitator may exempt the applicant-assessee from personally attending the negotiation process and may be allowed to represent himself by an authorized representative, if he has sufficient reasons for his absence. While submitting an application for ADR, the applicant-assessee shall submit all related papers and documents, disclose all issues of law and facts. The applicant-assessee shall be cooperative, interactive, fair and bonafide while negotiating for resolution. If the applicant-assessee makes any untrue declaration, submits any false document and obtains an order or assessment on that basis, the order or assessment shall be set aside, if so detected, and appropriate legal action be initiated against him. The applicant-assessee shall be liable to pay any taxes, if due as a result of negotiation with the time frame as decided in the ADR.

19.3.9 Nomination and responsibility of the Commissioner's Representative in ADR [Section 152M]: The respective CT may nominate any income tax authority subordinate to him, not below the rank of DCT to represent him in the negotiation process of the ADR. The said representative shall attend the meeting(s) of ADR negotiation process and sign the agreement of such negotiation process, where an agreement is reached.

19.3.10 Procedures of disposal by the Alternative Dispute Resolution [Section 152N]:

- (1) Upon receiving the application of ADR, the Facilitator shall forward a copy of the application to the respective Deputy Commissioner of Taxes and also call for his opinion on the grounds of the application and also whether the conditions referred to in sections 152I and 152J have been complied with.
- (2) If the DCT fails to give his opinion regarding fulfillment of the conditions within fifteen days from receiving the copy mentioned in clause (c) of sub-section (3), the Facilitator may deem that the conditions thereto have been fulfilled.
- (3) The Facilitator may-
 - (a) notify in writing the applicant and the Commissioner of Taxes or the Commissioner's Representative to attend the meetings for settlement of disputes on a date mentioned in the notice;
 - (b) if he considers it necessary to do so, adjourn the meeting from time to time;
 - (c) call for records or evidences from the DCT or from the applicant before or at the meeting, with a view to settle the dispute; and
 - (d) before disposing of the application, cause to make such enquiry by any income-tax authority as he thinks fit.
- (4) The Facilitator will assist the applicant and the Commissioner's Representative to agree on resolving the dispute(s) through consultations and meetings.

19.3.11 Decision of the ADR [Section 152O]:

- (1) A dispute, which is subject to this Ordinance, may be resolved by an Agreement either wholly or in part where both the parties of the dispute accept the points for determination of the facts or laws applicable in the dispute.
- (2) Where an agreement is reached, either wholly or in part, between the assessee and the Commissioner's Representative, the Facilitator shall record, in writing, the details of the agreement in the manner as may be prescribed.
- (3) The recording of every such agreement shall describe the terms of the agreement including any tax payable or refundable and any other necessary and appropriate matter, and the manner in which any sums due under the agreement shall be paid and such other matters as the Facilitator may think fit to confirm effectiveness.
- (4) The agreement shall be void if it is subsequently found that it has been concluded by fraud or misrepresentation of facts.
- (5) The agreement shall be signed by the assessee and the Commissioner's Representative and the facilitator.
- (6) Where no agreement, whether wholly or in part, is reached or the dispute resolution is ended in disagreement between the applicant-assessee and the concerned Commissioner's Representative for noncooperation of either of the parties, the Facilitator shall communicate it, in writing recording reasons thereof, within fifteen days from the date of disagreement, to the applicant and the Board, the concerned court, Tribunal, appellate authority and income tax authority, as the case may be, about such unsuccessful dispute resolution.
- (7) Where the agreement is reached, recorded and signed accordingly containing time and mode of payment of payable dues or refund, as the case may be, the Facilitator shall communicate the same to the assessee and the concerned DCT for compliance with the agreement as per provisions of this Ordinance.
- (8) No agreement shall be deemed have been reached if the Facilitator fails to make an agreement within two months from the end of the application filling month.
- (9) Where there is a successful agreement, the Facilitator shall communicate the copy of the agreement to all the parties mentioned in sub-section (6) within fifteen days from the date on which the Facilitator and the parties have signed the agreement.

19.3.12 Effect of agreement [Section 152P]:

- (1) Notwithstanding anything contained in any provision of this Ordinance, where an agreement is reached, under sub-section (9) of section 152O, it shall be binding on both the parties and it cannot be challenged in any authority, Tribunal or court either by the assessee or any other income tax authority.
- (2) Every agreement, concluded under section 152O shall be conclusive as to the matters stated therein and no matter covered by such agreement shall, save as otherwise provided in this Ordinance, be reopened in any proceeding under this Ordinance.

19.3.13 Limitation for appeal where agreement is not concluded [Section 152Q]:

- (1) Notwithstanding anything contained in any provision of this Ordinance, where an agreement is not reached under this Chapter, wholly or in part, the assessee may prefer an appeal -
 - (a) to the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or Commissioner of Taxes (Appeals), as the case may be, where the dispute arises out of an order of a DCT;

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- (b) to the Taxes Appellate Tribunal where the dispute arises out of an order of the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or Commissioner of Taxes (Appeals), as the case may be; and
 - (c) to the respective appellate authority or court from where the assessee-applicant has got permission to apply for ADR.
- (2) In computing the period of limitations for filing appeal, the time elapsed between the filing of the application and the decision or order of the ADR shall be excluded.

Explanation: For the purpose of this section, "prefer an appeal" means the revival of the appeal with an intimation in writing to the respective appellate authority.

19.3.14 Post verification of the agreement [Section 152R]:

The Board may monitor the progress of disposal of the application for ADR in the manner as may be prescribed and ensure necessary support and coordination services. Copies of all agreement or matter of disagreement shall be sent by the Facilitator to the respective Commissioner and Board for verification and ascertainment of whether the agreement is legally and factually correct. After receiving the copy of agreement or matter of disagreement, if it appears to the Board that the alleged agreement is obtained by fraud, misrepresentation or concealment of fact causing loss of revenue, then such agreement shall be treated as void and the matter shall be communicated to the concerned authorities, Tribunal or court for taking necessary action.

19.3.15 Bar on suit or prosecution [Section 152S]: No civil or criminal action shall lie against any person involved in the ADR process before any court, tribunal or authority for any action taken or agreement reached in good faith.

KEY POINTS

1. Penalty is imposed for non-compliance with the provisions relating to income tax as per the Income Tax Ordinance, 1984.
2. Penalty is in addition to any other liability.
3. No one can be penalized unless he/she has been heard or has been given a reasonable opportunity of being heard.
4. The Deputy Commissioner of Taxes shall not impose any penalty without prior approval of the Inspecting Joint Commissioner of Taxes except in case of failure to file return.
5. An assessee may prefer an appeal to the Appellate Joint Commissioner of Taxes against the order of the Deputy Commissioner of Taxes in specific grounds.
6. Appeal to the Appellate Joint Commissioner of Taxes should be made in prescribed manner, within specific period (generally 45 days) and with a fee of Tk. 200.
7. Any appeal against the order of the Tax Recovery shall be filed within 30 days from the date of service of the order.
8. An assessee or the DCT can appeal against the order of AJCT or Commissioner (appeal).
9. Appeal to the Appellate Tribunal should be filed in prescribed manner, within specific period (generally 60 days) and with a fee of Tk. 1,000.
10. To resolve any question of law the assessee or the commissioner may apply to the High Court Division in prescribed manner, within 90 days and with a fee of Tk. 2,000.

Summary Table

Section	Subject	Penalty Provision
123(a)	Not maintaining accounts in the prescribed manner: (a) If the assessee has no income from house property	Maximum 1.5 times of tax liability. Tk. 100 if the total income of the assessee does not exceed the maximum amount on which tax is not chargeable.
123(b)	(b) If the assessee has income from house property	50% of taxes payable on house property income or Tk. 50,000, whichever is higher
124(1)	Failure to file return	10% of tax imposed on last assessed income subject to a minimum of Tk. 1,000 <i>Continuing default:</i> additional penalty Tk. 50 per day during which the default continues. <i>Penalty shall not exceed:</i> ⇒ For individual whose income was not assessed previously - Tk. 5,000 ⇒ For individual whose income was assessed previously - higher of 50% of the tax payable on the last assessed income or Tk. 1,000
124(2)	Failure to furnish certificate	Penalty of Tk. 500 <i>Continuing default:</i> additional penalty Tk. 250 for every month of fraction during which the default continues.
124A.	Use of fake TIN	Not exceeding Tk. 20,000
124AA	Penalty for failure to verify TIN	Not exceeding Tk. 200,000 and Tk. 50,000 as the case may be.
125	Failure to pay advance tax or furnish untrue estimates of tax	Maximum penalty = Amount of advance tax – Actual tax paid
126	Non compliance with notice	Maximum = tax liability on total income
127	Failure to pay tax on the basis of return	Maximum = 25% of unpaid tax liability
128(1)	Concealment of income or understate value of any immovable property to evade tax	15% of avoided tax amount or as the case may be, the value of the immovable property as stated by him been accepted as correct. <i>Provided that, if the concealment is detected after one year of actual assessment year, additional 15% for each preceeding assessment year.</i>
129A	Penalty for incorrect or false audit report by chartered accountant	Not less than Tk. 50,000 but not more than Tk.200,000
129B	Penalty for furnishing fake audit report	Tk. 100,000 for that income year

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Multiple choice questions:

1. Generally who has the authority to impose penalty –
 - (a) High Court Division
 - (b) Appellate Tribunal
 - (c) Deputy Commissioner of Taxes
 - (d) Tax Recovery Officer
2. Penalty shall not be imposed without the previous approval of the Inspecting Joint Commissioner except in the cases of –
 - (a) not maintaining accounts in prescribed manner
 - (b) failure to file return
 - (c) failure to furnish certificate
 - (d) non compliance with notice
3. Where the assessment of tax was made by the assessee himself and it was accepted by the DCT as correct although the assessee conceal income, the maximum penalty would be –
 - (a) 2.5 times of tax, assessee has been avoided
 - (b) 3 times of tax, assessee has been avoided
 - (c) 4 times of tax, assessee has been avoided
 - (d) 10% of tax, assessee has been avoided
4. Where any person has, without reasonable cause, failed to comply with any notice issued to produce accounts and documents, a penalty may impose not exceeding the amount of –
 - (a) 2.5 times of tax liability
 - (b) 1.5 times of tax liability
 - (c) tax liability on total income
 - (d) none of the above
5. Penalty is 25% of unpaid tax liability when the assessee –
 - (a) does not maintaining accounts in prescribed manner
 - (b) fail to pay tax on the basis of return
 - (c) fail to furnish certificate
 - (d) does not comply with notice
6. When the assessee is not satisfied with the order of the Deputy Commissioner of Taxes, he/she may prefer an appeal to the –
 - (a) Appellate Joint Commissioner of Taxes
 - (b) High Court Division
 - (c) Appellate Tribunal
 - (d) Appellate Division
7. A company can appeal against the order of the Deputy Commissioner of Taxes in the following grounds except –
 - (a) the amount of loss computed under section 37
 - (b) imposition of interest under section 73
 - (c) refusal to allow a claim to a refund
 - (d) imposing of penalty for failure to file return
8. Every appeal to Appellate Joint Commissioner shall be drawn up in such form and verified in such manner as may be prescribed and shall be accompanied by a fee of –
 - (a) Tk. 500
 - (b) Tk. 400
 - (c) Tk. 300
 - (d) Tk. 200

9. Any appeal against the order of the Tax Recovery Officer shall be file within –
 - (a) 60 days from the date of service of the order
 - (b) 30 days from the date of service of the order
 - (c) 80 days from the date of service of the order
 - (d) 90 days from the date of service of the order
10. An assessee may appeal to the Appellate Tribunal if he is aggrieved by an order of –
 - (a) an Appellate Joint Commissioner or the Commissioner (Appeals)
 - (b) the Deputy Commissioner of Taxes
 - (c) Appellate Division
 - (d) High Court Division

Identify the following statements as True (T) or False (F):

1. Penalty substitute tax liability.
2. No penalty can be imposed without hearing.
3. Like an assessee, the Deputy Commissioner of Taxes can also appeal to the Appellate Tribunal.
4. An appeal to the Appellate Tribunal should be made within 90 days from the date when the order is communicated with the assessee.
5. A bench is formed in the High Court Division for hearing with not more than two judges.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 19 – 1:** State the grounds for which an assessee may penalize according to Income Tax Ordinance, 1984.
- Question 19 – 2:** Followings are the statements relating to imposition of penalty. Identify each of them as either true or false. If the statement is false, state the correct answer according to Income Tax Ordinance, 1984.
- (a) Where any person has, without reasonable cause, *failed to comply with any notice* issued by the DCT, a penalty will impose on him by an amount of Tk. 2,500.
 - (b) DCT can impose penalty to any assessee *without prior approval* from anybody else.
 - (c) Where any person has, without reasonable cause, *failed to pay advance tax or furnish untrue estimate of tax liability*, a penalty may impose upon him a sum not exceeding 25% of the whole of the tax.
 - (d) Where any person has, without reasonable cause, *failed to file a return of income*, the DCT may impose upon such person a penalty not exceeding Tk. 100 and if the default continues Tk. 250 per month or fraction.
- Question 19 – 3:** State under what circumstances an assessee prefer an appeal to the Appellate Joint Commissioner of Taxes, if the assessee –
- (a) is not a company
 - (b) is a company
- Question 19 – 4:** Describe how an assessee file his/her appeal and how the Appellate Joint Commissioner of Taxes undertake appeal procedure. .
- Question 19 – 5:** Describe the provisions relating to appeal to the Appellate Tribunal.

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Question 19 – 6: Miss Afroza Rahman is a regular tax payer who is aggrieved by an order placed by the Deputy Commissioner of Taxes where she was penalized Tk. 9,750 for not maintaining accounts in the prescribed manner and Tk. 22,000 for concealment of income. Miss Rahman likes to appeal against such orders and asked for your help. Answer the followings questions asked by Miss Rahman.

- (a) Under what circumstances can an assessee other than a company prefer an appeal?
- (b) To whom Miss Rahman should place the appeal?
- (c) When and how should she place the appeal?
- (d) What penalty provision is applicable for Miss Rahman's offences?

Question 19 – 7: "Penalty to be without prejudice to other liability" – explain.

Question 19 – 8: Write short note on:

- (a) Penalty for non compliance with notice
- (b) Penalty for failure to file return
- (c) Appeal to Appellate Division
- (d) Reference to the High Court Division

Answers:

Multiple choice questions		True/False
1. c	6. a	1. F
2. b	7. d	2. T
3. d	8. d	3. T
4. c	9. b	4. F
5. b	10. a	5. F

Self-review 19 – 1:

Mr. Ahmed will be penalized according to Section 124(1) of the Income Tax Ordinance, 1984 and the amount of penalty will be Tk. 2,950 in the said year because of his failure to file return.

Calculation of penalty: 10% of Tk. 22,000 = Tk. 2,200 or minimum Tk. 1,000 = Tk. 2,200
 Plus (50 × 4) = Tk. 200 for default period = Tk. 200
 Total = Tk. 2,400

Self review 19 – 2:

Similarities:

1. In both cases appeal should made in prescribed form and verified in prescribed manner.
2. Both the appeal shall file within 60 days from the date of order against which the appeal sought to be made. But if the authority is satisfied that there was sufficient cause for not presenting the appeal within that period then may admit an appeal after expiry of 60 days.

Dissimilarities:

In case of appeal to the Appellate Joint Commission of taxes a fee of Tk. 200 and in case of appeal to the Appellate Tribunal Tk. 1,000 need to be accompanies with the application of appeal. To file an appeal to the Appellate Tribunal the assessee should pay 10 % of (tax based on return – tax determined by the Appellate Joint Commissioner of taxes). On the other hand no such requirement is there to file an appeal to the Appellate Joint Commissioner of taxes.

CHAPTER – 20

MISCELLANEOUS

◎ LEARNING OBJECTIVES ◎

After studying Chapter 20, you shall be able to understand:

- ✦ the concept of:
 - tax holiday scheme
 - recovery of tax
 - tax refund
 - offences and prosecution
 - tax planning
 - ✦ the criteria to entitle these benefits
 - ✦ different modes and conditions of these benefits Bangladesh
-

20.1 TAX HOLIDAY SCHEME

It is one kind of special scheme taken by NBR to enhance rapid industrialization in Bangladesh. Under this, some specific newly established industrial undertakings are given exemption from payment of income tax upto a certain period of time subject to the fulfillment of some conditions. As per section 15(b) of the ITO, 1922, Tax Holiday Scheme was first introduced in Pakistan in 1959. After the independence of Bangladesh, this scheme was repealed in 1972 by an ordinance. But again, to boost up rapid industrialization in the country, this scheme has again been re-introduced in 1974 introducing Sec. 14(a) in the ITO, 1922. In the ITO, 1984, the government has retained the scheme as per section 45, 46 and 47. The main objectives of this scheme are to encourage formation of domestic capital as well as attracting FDI to enhance the rapid industrialization of the country.

20.1.1 Tax holiday for Industrial Undertakings [Section – 46B]: As per Section 46B of the ITO, 1984, for the purpose of the tax holiday “Industrial undertaking” means an industry engaged in the production of active pharmaceutical ingredient industry and radio pharmaceuticals industry, automobile manufacturing industry, barrier contraceptive and rubber latex, basic chemicals or dyes and chemicals, basic ingredients of electronic industry (e.g. resistance, capacitor, transistor, integrator circuit), bi-cycle manufacturing industry, bio-fertilizer, biotechnology, boilers, brick made of automatic Hybrid Hoffmann Kiln or Tunnel Kiln technology, compressors, computer hardware, energy efficient appliances, insecticide or pesticide, petrochemicals, pharmaceuticals, processing of locally produced fruits and vegetables, radio-active (diffusion) application industry (e.g. developing quality or decaying polymer or preservation of food or disinfecting medicinal equipment, textile machinery, tissue grafting, tire manufacturing industry or any other category of industrial undertaking as the Government may by notification in the official Gazette specify. But for the purpose of this section industrial undertaking shall not include expansion of such an existing undertaking. As per Section 46B, the income, profits or gains of an industrial undertaking set up in Bangladesh between specified periods are eligible for tax holiday subject to fulfillment of specified conditions. Industrial Undertakings specified for Tax Holiday option presently available:

Section 46B: The income, profits or gains of an industrial undertaking set up in Bangladesh between 1st July, 2011 to 30th June, 2019 (both days inclusive) will be exempted from tax for the period beginning with the commencement of its commercial service specified below:

Specified Areas	Total period of exemption	Period of Exemption	Rate of Exemption
Dhaka, Mymensingh and Chittagong divisions (excluding Dhaka, Narayanganj, Gazipur, Chittagong, Rangamati, Bandarban and Khagrachari)	5 years	For the first 2 years (1 st and 2 nd year)	100% of income
		For the 3 rd year	60% of income
		For the 4 th year	40% of income
		For the 5 th year	20% of income
Rajshahi, Khulna, Sylhet, Barisal and Rangpur divisions (Excluding City Corporation Area) and Rangamati, Bandarban and Khagrachari	10 years	For the first 2 years (1 st & 2 nd year)	100% of income
		For the 3 rd year	70% of income
		For the 4 th year	55% of income
		For the 5 th year	40% of income
		For the 6 th year	25% of income
		For the 7 th to 10 th year	20% of income

Provided that any industry is engaged in the production of bio-fertilizer or petrochemicals, they shall be entitled for exemption from tax under this section even it is set up in the districts of Dhaka, Gazipur, Narayanganj or Chittagong.

20.1.2 Tax holiday for Physical Infrastructure Facility [Section 46C]: As per Section 46C of the ITO, 1984, for the purpose of the tax holiday “Physical Infrastructure Facility” means deep sea port, elevated expressway, export processing zone, flyover, gas pipe line, Hi-tech park, Information and Communication Technology (ICT) village or software technology zone, Information Technology (IT) park, large water treatment plant and supply through pipeline, Liquefied Natural Gas (LNG) terminal and transmission line, mono-rail, rapid transit, renewable energy (e.g. energy saving bulb, solar energy plant, windmill), sea or river port, toll road or bridge, underground rail, waste treatment plant or any other category of physical infrastructure facility as the Government may by notification in the official Gazette specify. As per Section 46C, the income, profits or gains of an industrial undertaking set up in Bangladesh between specified periods are eligible for tax holiday subject to fulfillment of specified conditions.

Physical Infrastructure Facility specified for Tax Holiday option presently available:

Section 46C: The income, profits or gains of a Physical Infrastructure Facility set up in Bangladesh between 1st July, 2011 to 30th June, 2019 (both days inclusive) will be exempted from tax for ten years beginning with the commencement of its commercial service specified below:

Period of Exemption:	Rate of Exemption
For the first 2 years (1 st & 2 nd year)	100% of income
For the 3 rd year	80% of income
For the 4 th year	70% of income
For the 5 th year	60% of income
For the 6 th year	50% of income
For the 7 th year	40% of income
For the 8 th year	30% of income
For the 9 th year	20% of income
For the 10 th year	10% of income

SELF REVIEW 20 – 1

State the period of tax holiday applicable for followings industries set up in Dhaka between 1st July, 2011 to 30th June, 2019: (a) Industrial undertaking (b) Physical infrastructure facility.

20.1.3 Conditions for approval of Tax Holiday for Industrial Undertakings, Tourism Industry and Physical Infrastructure Facility: The period covering tax holiday facilities for industrial undertakings and tourism industry under section 45(1), 45(2A), 46(1), 46A and 46(2A) have already been expired. Now as per section 46B the conditions to avail tax holiday facility for an industrial undertakings or physical infrastructure facility are:

- (1) That the industry is owned and managed by-
 - i) a body corporate established by or under an Act of Parliament with its head office in Bangladesh.
 - ii) A company as defined in the Companies Act, 1913 or 1994 with its registered office in Bangladesh and having a subscribed and paid up capital of not less than twenty lakh taka (under Section 46B and 46C) on the date of commencement of commercial production or operation.
- (2) That 30% of the exempted income is invested during the period or within one year from the end of the exemption period, in the same undertaking or in the new industrial undertaking. In addition to that 10% of the exempted income is invested in each year before the expiry of 3 months from the end of the income year in the purchase of shares of a company listed with any stock exchange.
- (3) That the said undertaking is not formed by splitting up or by reconstruction or reconstitution of business already in existence or by transfer to a new business of any machinery or plant used in business which was being carried on in Bangladesh at any time before the commencement of the new business.
- (4) That the said undertaking is approved by the NBR.
- (5) An application in the prescribed form for approval of the undertaking should be filed to the Board within six months from the end of the month of commencement of commercial production or operation. For industrial undertaking and physical infrastructure facility the format mentioned in Rule 59A and Rule 59AA respectively will be followed.
- (6) That the said undertaking obtained a clearance certificate for the relevant income year from the Directorate of Environment.
- (7) That the said undertaking maintains books of accounts on a regular basis and submits return of its income as per Section 75 of the ITO.

20.1.4 Approval procedure of Tax Holiday by the Board [Section 46C]: The NBR shall give its decision within 45 days from the date of receipt of the application failing which the undertaking shall be deemed to have been approved for tax holiday. Provided that, the Board shall not reject an application without giving the applicant a reasonable opportunity of being heard. If any person is aggrieved by the Board's decision, an application may be made within four months from the date of receipt of the Board's decision for revision of its previous decision/order. The Board may pass such order in relation thereto as it thinks fit.

20.1.5 Determination of Income of an industry enjoying Tax Holiday [Section 46C (6), (7) & (8)]: The profits and gains of the industries enjoying tax holiday will be computed in the same manner as is applicable to income chargeable under the head "Income from business or profession". In this regard the following factors should be considered:

- (i) The profits/gains of the said undertaking shall be computed separately from other income, profits and gains of the assessee. And any loss shall be carried forward to set off against income from same undertaking in the following year or years but loss shall not be carried forward beyond tax-holiday period.
- (ii) In respect of depreciation, only the allowances for normal depreciation specified in paragraph 3 of the Third schedule shall be allowed.
- (iii) Any dividend distributed by a tax-holiday company to its shareholders out of its exempted profit shall not be exempt from tax.
- (iv) Capital gains earned by a tax-holiday undertaking shall not be exempt from tax.
- (v) Any income of the said undertaking resulting from disallowance made u/s - 30.

20.1.6 Withdrawal and Cancellation of Exemptions [Section 46C (9, 10, 11) & 46B (11, 12, 13)]: As per section 46C, for the following reasons the tax exemption facility can be withdrawn or cancelled by the NBR:

- (i) Where any exemption is allowed u/s-46C and in the course of making assessment, the DCT is satisfied that any of the conditions specified in this section are not fulfilled or any individual not being a Bangladeshi citizen is employed or allowed to work without prior approval of the Board of Investment or any competent authority of the Government, as the case may be, for this purpose, the exemption will stand withdrawn for the relevant assessment year and the DCT shall determine the tax payable for such year.
- (ii) An approved undertaking may apply in writing not later than one year from the date of approval, for cancellation of the approval.
- (iii) The Board in the public interest may cancel or suspend fully or partially any exemption allowed under this section.

20.1.8 Exemption of Income of Co-operative Societies [Section – 47]: Tax shall not be payable by a co-operative society in respect of –

- (a) the entire income from business carried on by it, if it is engaged in:-
 - (i) agricultural or rural credit;
 - (ii) cottage industry;
 - (iii) marketing of agricultural produce of its members;
 - (iv) purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members;
 - (v) such processing, not being the performance of any manufacturing operation with the aid of power, of the agricultural produce of its members as is

- ordinarily employed by a cultivator to render marketable the agricultural produce raised by him; and
- (b) any income derived from the letting of go downs or warehouses for the purpose of storage, processing or facilitating the marketing of commodities belonging or meant for sale to its members.

20.1.9 Tax Holiday at Export Processing Zone (EPZ): To enhance the economic development and industrialization in the country, Bangladesh government has passed the Bangladesh Export Processing Zones Authority Act in 1980. As per section 10 of this act, the government can declare a specific area which is set to establish industries as Export Processing Zone (EPZ). Income of any industry set up in any EPZ will enjoy tax exemption facilities at specified rates for a number of years from the date of commencement of commercial production of the said industry. The concessions have been granted to the industries set up in any EPZ under the notifications issued by the Internal Resources Division of the Ministry of Finance through various S.R.Os. The special facilities for establishment of Industry in EPZ are as follows:

- (1) **Exemption of income of any industry set up in any Export Processing Zone [S.R.O. No. 219-LAW/IT/2012 dated 27th June, 2012]:** Income of any industry set up in any EPZ declared u/s 10 of BEPZA Act, 1980 has been exempted u/s 44(4)(b) for a period of 5 to 7 years from the date of commencement of commercial production of the said industry as follows:

Specified Areas	Total period of exemption	Period of Exemption	Rate of Exemption
Dhaka & Chittagong divisions (excluding Rangamati, Bandarban and Khagrachari)	5 years	For the first 2 years (1 st and 2 nd year)	100% of income
		For the next 2 years (3 rd and 4 th year)	50% of income
		For the last 1 year (5 th year)	25% of income
Other divisions and Rangamati, Bandarban and Khagrachari districts	7 years	For the first 3 years (1 st , 2 nd & 3 rd year)	100% of income
		For the next 3 years (4 th , 5 th and 6 th year)	50% of income
		For the last 1 year (7 th year)	25% of income

These organizations have to maintain proper accounts and submit income tax return as per section 75 within stipulated time. This facility will be applicable from 1st January, 2012.

- (2) **Accelerated depreciation upto 100% for plant or machinery used in specified hi-tech electronic industry [S.R.O. No. 269-L86 dated 1st July, 1986]:** Machinery or Plant other than office appliances and road transport vehicles (not having been previously used in Bangladesh) used in the specified hi-tech electronic industry set up in any of the EPZs shall be allowed to enjoy Accelerated depreciation upto 100% of the cost within the tax exemption period subject to submission of the application for such facility to the NBR within four months of the installation of machinery or plant.

SELF REVIEW 20 – 2

State any two conditions relating to tax holiday benefit for the industrial undertakings.

20.2 RECOVERY OF TAX

The procedure regarding recovery of income tax has been explained under the sections 134 to 143 of the ITO, 1984. As per Section 134, for the purposes of recovery, “tax” includes any sum imposed, levied or otherwise payable under this Ordinance as penalty, fine, interest, fee or otherwise; and the provisions of this chapter shall accordingly apply to the recovery of any such sum. The details of other provisions are enumerated below:

20.2.1 Notice of Demand [Section – 135]:

- 1) Where any tax is payable in consequence of any assessment made or any order passed under or in pursuance of this Ordinance, the DCT shall serve upon the assessee a notice of demand in the prescribed form specifying therein the sum payable and the time within which, and the manner in which, it is payable, together with a copy of an assessment order.
- 2) Where the assessee upon whom a notice of demand has been issued under sub-section (1) makes an application in this behalf before the expiry of the date of payment specified in the notice, the DCT may extend the time for payment or allow payment by installments subject to such conditions, including payment of interest on the amount payable, as he may think fit in the situation of the case.
- 3) If the sum payable is not paid within the stipulated time under sub-section (1) or (2), the assessee shall be deemed to be in default; provided, if there is an appeal, the DCT will treat the assessee as not being in default till the appeal is not disposed of.
- 4) If, in a case where payment by installment has been allowed under sub-section (2), the assessee commits default in paying any one of the installments within the time fixed therefore, the assessee shall be deemed to be in default as to the whole of the amount then outstanding, and the other installment or installments shall be deemed to have been due on the same date as the installment in respect of which default has actually been committed was due for payment.
- 5) Where an assessee has been assessed in respect of income arising outside Bangladesh in a country the laws of which prohibit or restrict the remittance of money to Bangladesh, the DCT shall not treat the assessee as in default in respect of that part of the tax which is due in respect of such amount of income as cannot, by reason of the prohibition or restriction, be brought into Bangladesh, and shall continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed.

20.2.2 Penalty for Default in Payment of Tax [Section – 137]:

Where an assessee is in default or is deemed to be in default in making payment of tax, the DCT may direct that, in addition to the amount of tax in arrears, a sum not exceeding that amount shall be recovered from the assessee as penalty. Where, as a result of any final order, the amount of tax, with respect to the default in the payment of which the penalty was levied, has been wholly reduced, the penalty levied shall be cancelled and the amount of penalty paid shall be refunded.

20.2.3 Certificate for Recovery of Tax [Section – 138]: When an assessee is in default or is deemed to be in default in making payment of tax, the DCT may forward to the Tax

Recovery Officer a certificate for recovery of the tax, under his signature specifying the amount of arrears due from the assessee; and such certificate may be issued notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.

20.2.4 Various Modes of Recovery of Tax:

20.2.4.1 Recovery of Tax by the Tax Recovery Officer [Section – 139]:

- 1) In the case of default in payment of tax by an assessee, the DCT may forward the case to the concerned Tax Recovery Officer (TRO) to recover the arrear tax specified in the certificate by one or more of the following modes, namely:-
 - a) attachment and sale, or sale without attachment, of any movable or immovable property of the assessee;
 - b) arrest of the assessee and his detention in prison;
 - c) appointment of a receiver for the management of the movable and immovable properties of the assessee.
- 2) While recovering the arrear tax under sub-section (1), the Tax Recovery Officer may also recover in the same manner from the assessee in default, in addition to such amount, any cost and charges, including expenses of the service of any notice or warrant, incurred in the proceedings for the recovery of the tax in arrears.
- 3) The TRO may also forward the certificate of recovery to other TROs, if necessary.

20.2.4.2. Recovery of Tax through Collector of District [Section – 142]:

- 1) The DCT may forward the case of default by an assessee, to the collector of district in which the office of the DCT is situate or the district in which the assessee resides or owns property or carries on business or profession, a certificate under his signature specifying the amount of arrears due from an assessee, and the Collector, on receipts of such certificate, shall proceed to recover, from such assessee the amount specified therein as if it were an arrear of land revenue.
- 2) For the purposes of recovery of the default tax, the Collector of District may also exercise the power of a Civil Court.
- 3) The DCT, at any time, recall the certificate back from the Collector of District under reasonable circumstances.

20.2.4.3. Recovery of Tax through Special Magistrates [Section – 142A]:

- 1) Without prejudice to the provisions of section 142, the DCT may forward to a, Magistrate of the First Class, specially empowered in this behalf by the Government, a certificate for recovery of tax and the Magistrate shall, on receipt of such certificate, proceed to recover from the assessee the amount specified therein as if it were an arrear of land revenue and the Special Magistrate were a Collector of District.
- 2) For the purposes of recovery of the default tax, the Special Magistrate may also exercise the power of a Civil Court.
- 3) The DCT, at any time, recall the certificate back from the Special Magistrate under reasonable circumstances.

20.2.4.4. Other Modes of Recovery [Section – 143]: In addition to the approaches mentioned above, the DCT may also recover the tax in the following manners:

- (a) For the purpose of recovery of tax payable by an assessee which is not disputed in appeal to any appellate forum, the DCT may, with the previous approval of the Commissioner, after giving the assessee an opportunity of being heard, stop movement of any goods and services from the business premises of such assessee

and also shutdown such business premises till the recovery of the tax referred to above or any satisfactory arrangement has been made for the recovery of such tax.

- (b) Here, the DCT may also issue a notice to any person from whom any money or goods is due or may become due to the assessee, or who holds, or controls the receipt or disposal of, or may subsequently hold, or control the receipt or disposal of, any money or goods belonging to, or on account of, the assessee, to pay to the DCT the sum specified in the notice on or before the date specified therein for such payment;
- (c) The DCT may issue notice to the employers of the assessee to deduct the taxes in arrears from the salaries of those persons as specified in the notice and pay the same so deducted to the credit of the government.
- (d) In any area for which the Commissioner has directed that any arrears may be recovered by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of Bangladesh, the DCT may proceed to recover the amount due by such process.
- (e) The Commissioner may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under the above sub-section.

SELF REVIEW 20 – 3

- (a) State the modes of tax recovery by TRO from an assessee in default.
 - (b) State the procedure regarding recovery of tax through Special Magistrates.
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20.3 REFUNDS

The provisions regarding refund of taxes are as follows:

20.3.1 Entitlement to Refund [Section – 146]: A person, who satisfies the income tax authority that he has paid more amount as tax than as it actually would be chargeable under the Ordinance, shall be entitled to a refund of any such excess. Where the income of the person is included under any provision of this Ordinance in the total income of any other person, such other person alone shall be entitled to a refund under this chapter in respect of such income.

20.3.2 Claim of Refund for Deceased or Disabled Persons [Section – 147]: Where through death, incapacity, insolvency, liquidation or other cause, a person, is unable to claim or receive any refund due to him, his legal representative, or the trustee, guardian or receiver, as the case may be, shall be entitled to claim or receive such refund for the benefit of such person or his estate.

20.3.3 Refund on the Basis of Orders in Appeal [Section – 149]: Where, as a result of any order passed in appeal or other proceeding under this Ordinance, refund of any amount becomes due to an assessee, the DCT shall, refund the amount, unless set off against tax or treated as payment of tax as per provisions of section 152, to the assessee, within thirty days from the date on which the refund has become due without his having to make any claim in that behalf.

20.3.4 Form of Claim for Refund and Limitation [Section – 150]: Every claim for refund under sections 146 and 147 shall be made in such form and verified in such manner as may be prescribed.

20.3.5 Interest on Delayed Refund [Section – 151]: Where a refund due to an assessee is not paid within two months of the date of claim for refund or refund becoming due consequent upon any appellate order or of other proceedings under this Ordinance, simple interest at the rate of 7.5% per annum shall be payable to the assessee on the amount of refund from the month following the said two months to the date of actual refund.

20.3.6 Adjustment of Refund against Tax [Section – 152]: Where under any provision of this Ordinance or of the Gift-tax Act, 1963 or the Wealth-tax Act, 1963 a refund is due, the DCT may, in lieu of payment of refund, set off the amount in full or part against the sum, if any, payable under this Ordinance, by the person but at the option of that person in writing.

20.4 OFFENCES AND PROSECUTION

As per chapter XXI of the ITO, 1984, the offences and prosecutions are as follows:

20.4.1 Punishment for Non-Compliance of Certain Obligations [Section – 164]:

A person is guilty of an offence punishable with imprisonment for a term which may extend to one year, or with fine, or with both, if he, without reasonable cause,-

- (a) fails to deduct or collect and pay any tax as required under the provisions of Chapter VII except advance payment of tax or fails to deduct and pay tax as required under section 143(2);
- (b) fails to produce, or cause to be produced, on or before the date mentioned in any notice under Chapter VIII, or under section 83, such accounts, documents or statements as are referred to in such notice;
- (c) fails to furnish, in due time, the return of income which he is required to furnish under section 75, or by notice given under section 77 or 93;
- (d) refuses to furnish such information as may be necessary under section 113.
- (e) refuses to permit inspection or to allow copies to be taken in accordance with the provisions of section 114;
- (f) fails to afford necessary facilities or to furnish the required information to an income tax authority exercising powers under section 115;
- (g) fails to comply with the requirement under section 116(1);
- (h) fails to comply with the order made under section 116A(1); or
- (i) refuses to permit or in any manner obstructs the exercise of powers under section 117 by an income tax authority.

20.4.2 Punishment for False Statement in Verification [Section – 165]: A person is guilty of an offence punishable with imprisonment for a term, which may extend to three years, but shall not be less than three months, or with fine, or with both, if he makes a false statement in any return or any other documents.

20.4.3 Punishment for improper use of tax-payer's Identification Number [Section – 165A]: A person is guilty of an offence punishable with imprisonment for a term which may extend to three years or with fine up to Tk. 50,000 or both, if he deliberately uses or used a fake TIN or a TIN of another person.

20.4.4 Punishment for furnishing fake audit report [Section – 165AA]: A person is guilty of an offence punishable with imprisonment for a term which may extend to three years, but shall not be less than three months, or with fine upto taka one lakh, or both, if he

furnishes along with the return of income or thereafter any audited statement of accounts which is false or does not conform with signature of a chartered accountant purported to be signatory to such statement.

20.4.5 Punishment for obstructing an income tax authority [Section – 165B]: A person who obstructs an income tax authority in discharge of functions under this ordinance shall commit an offence punishable with imprisonment for a term not exceeding one year, or with a fine, or with both.

20.4.6 Punishment for unauthorized employment [Section – 165C]: A person is guilty of an offence punishable with imprisonment for a term which may extend to three years, but shall not be less than three months, or with fine up to taka five lakh, or both, if he employs or allows to work any individual not being a Bangladeshi citizen without prior approval from Board of Investment or any competent authority of the government as the case may be.

20.4.7 Punishment for Concealment of Income [Section – 166]: A person is guilty of an offence punishable with imprisonment which may extend to five years, but shall not be less than three months, or with fine, or with both, if he conceals the particulars, or deliberately furnishes inaccurate particulars, of his income.

20.4.8 Punishment for Disposal of Property to Prevent Attachment [Section – 167]: The owner of any property, or a person acting on his behalf or claiming under him, is guilty of an offence punishable with imprisonment for a term which may extend to five years, or with fine, or with both, if he sells, mortgages, charges, leases or otherwise so deals with the property after the receipt of a notice from the Tax Recovery Officer as to prevent its attachment by that Officer.

20.4.9 Punishment for Disclosure of Protected Information [Section – 168]: A public servant, or any person assisting, or engaged, by any person acting in the execution of this Ordinance, is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine, if he discloses any particulars or information in contravention of the provisions of section 163.

20.4.10 Sanction for Prosecution [Section – 169]: No prosecution for an offence punishable under any provisions of this Chapter shall be instituted except with the previous sanction of the Board.

20.4.11 Power to Compound Offences [Section – 170]: The Commissioner may, either before or after the institution of any proceedings or prosecution for an offence punishable under this Chapter, compound such offence.

20.4.12 Trial by Special Judge [Section – 171]

- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), or in any other law for the time being in force, an offence punishable under this Chapter, other than an offence under section 168, shall be tried by a Special Judge appointed under the Criminal Law Amendment Act, 1958 (XL of 1958), as if such offence were an offence specified in the Schedule to that Act.
- (2) A Special Judge shall take cognizance of, and have jurisdiction to try, an offence triable by him under sub-section (1) only upon a complaint in writing made, after obtaining the sanction under 169, by the Deputy Commissioner of Taxes-

- (a) who is competent to make assessment under this Ordinance in the case to which the offence alleged to have been committed relates, and
- (b) whose office is situated within the territorial limits of the jurisdiction of the Special Judge.

20.5 TAX PLANNING: CONCEPT AND MEANING

As we know that, tax is a compulsory payment to the state by the people of the country who come under the orbit of tax laws. But most of the assessee generally tries to minimize his tax payment through evasion as well as avoidance. Unfortunately, the terms "tax evasion" and "tax avoidance" are often used interchangeably. **Tax avoidance** is the legal utilization of the tax regime to one's own advantage, in order to reduce the amount of tax that is payable by means that are within the law. By contrast **tax evasion** is the general term for efforts to not pay taxes by *illegal* means. On the other hand, **tax planning** is a strategy of minimizing tax liability for an individual or company by analyzing the tax implications of various options throughout a tax year. Tax planning involves choosing a filing status, figuring out the most advantageous time to realize capital gains and losses, knowing when to accelerate deductions and postpone income or vice versa, setting up a proper investment plan to avail the maximum amount of tax rebate and reduce income taxes, and other legitimate tax-saving moves. Tax planning involves conceiving of and implementing various strategies in order to minimize the amount of taxes paid for a given period. For an assessee, minimizing the tax liability can provide more money for expenses, investment, or growth. Tax knowledge has powerful profit potential. Knowing what the tax law has to offer can give an assessee a far better bottom line than his competitors who don't bother to learn. It emphasizes mainly on tax relief related activities with a view to minimizing the tax liability.

20.5.1 General Principles of Tax Planning: There are several general principles of tax planning that apply to all sorts of assessee. These areas include the choice of accounting and inventory-valuation methods, the timing of equipment purchases, the spreading of business income among family members, and the selection of tax-favored benefit plans and investments. There are also some areas of tax planning that are specific to certain business forms—i.e., sole proprietorships, partnerships, corporations, and individual assessee. Some of the general principles of planning are: (1) Tax planning strategy should be taken on the basis of existing provisions of the tax laws to achieve short-term as well as long-term benefits. (2) Tax planning strategy should not exceed the legal boundary i.e. it may be used as a tool of avoiding tax, not to evade since evasion is illegal. (3) Alternative investment opportunities should be critically analyzed to ensure maximum benefit in terms of investment, savings, growth and tax advantage. (4) Time value of money should be given proper importance while establishing the tax planning strategies.

20.5.2 Merits and Demerits of Tax Planning:

Any Income Tax Act is seldom drafted with perfection and often are there scopes for enjoying the maximum benefits by avoiding the hardship of levy within the legal framework. The law allows various deductions, exemptions, rebates, reliefs etc. Advantage may be taken for all these by the assessee. Moreover, it may have some demerits also.

Merits: (1) Effective tax planning reduces the tendency of tax evasion by the assessee. (2) It helps the assessee to minimize the tax liability. (3) It helps the assessee to enhance savings which in turn also acts as a mechanism of domestic resource mobilization. (4) It helps to build up an effective and efficient relationship between the taxpayer and tax authority. (5) Effective tax planning improves the tax compliance behavior of an assessee.

Demerits: (1) Frequent changes in tax law sometimes make some tax planning motive ineffective. (2) Effective tax planning has a negative impact in fulfilling the revenue target of the tax authority. (3) Inflation may hamper the tax planning benefits. (4) Long-term tax planning strategy may not be effective due to various changes in tax laws as well as economic conditions of the country.

20.5.3 Techniques and Methods of Tax Planning: Bangladesh Perspective: The Income Tax Ordinance, 1984, provides sufficient rooms for the assessee to minimize their tax through establishing several techniques. Many aspects of tax planning are specific to certain nature of taxpayer or business forms; some of these are:

20.5.3.1 Tax planning techniques used by an Individual Assessee: Under the umbrella of the provisions of the ITO, 1984, an individual assessee can minimize his payment of tax considering the following strategies in course of his tax planning:

1. **Investment in Tax free Securities:** An individual may invest his money in several types of tax-free government securities, as the interest income from such securities are fully exempted from tax. So the investment in government securities will allow the taxpayer to increase the amount of income without any obligation of tax payment for such income.
2. **Investment in Zero Coupon Bond:** An individual may invest his money in approved zero-coupon bonds issued by various institutions, as the interest incomes from such bonds are fully exempted from tax. This is also one of the most unique tools to maximize income without any obligation of tax payment.
3. **Investment in stock market:** An individual assessee may invest his fund in various shares. Up to Tk. 25,000 of dividend income is exempted for mutual fund shares and also Tk. 25,000 for other shares and moreover such investment is also considered as a part of investment allowance on which tax rebate is allowed.
4. **Investment in Businesses, income from which is non-assessable:** An individual assessee may start such business where the income is fully non-assessable. Such as, income from poultry, handicrafts business etc.
5. **Use of loan in investment in capital assets:** An individual assessee may use loan to acquire capital assets for the business. In such a case he will not only charge depreciation as allowable expense as well as the interest on such loan.
6. **Submission of separate return by the family members:** In a joint family, even in case of husband and wife, if they submit separate tax return they can avail maximum advantage of minimum non-assessable income limit which is (Tk. 250,000 + Tk. 300,000) = Tk. 550,000 in the assessment year 2016-17. Moreover, income from family property / joint owned property should be divided among the family members. This will reduce the tax burden for an individual.
7. **Taking the opportunity of full tax credit:** An individual assessee should predict his / her total income for the next income year to determine the maximum limit of his investment allowance. In the assessment year 2017-18, the maximum limit is 25% of Total income or Tk. 15,000,000; whichever is lower. Then, the assessee should invest in such a manner so that he can make his investment allowance more or less up to the maximum limit. The assessee will get 10% to 15% tax rebate for the investment.

20.5.3.2 Tax Planning techniques used by a Business:

Under the umbrella of the provisions of the ITO, 1984, a business organization, being an assessee, can minimize its payment of tax considering the following strategies in course of its tax planning:

1. **Forms of Business:** Partnership firms and the companies need to pay tax separately, whereas profit of the sole-tradership business is included in the income of its owner. Some business organization can avail tax holiday scheme, and some sectors enjoy special tax rates. So before starting the business, the entrepreneurs should consider the tax policy for a particular business.
2. **Setting up recognized funds:** An organization can create recognized provident fund, group insurance scheme, benevolent fund, superannuation fund etc. which is a mechanism to avail tax advantage.
3. **Availing investing opportunity having tax advantage:** An organization can invest in those areas where it can avail some tax advantage.
4. **Use of debt capital:** Use of debt capital in the capital structure of an organization may be advantageous for a company as interest expense is tax deductible.
5. **Investment in Business having Tax Holiday Scheme:** Money can be invested in those organizations where tax holiday facility can be availed.

So, it can be said that an effective and efficient tax planning is possible if the assessee has a proper knowledge about the tax law of a country. Careful planning may provide the assessee with maximum tax advantage.

KEY POINTS

1. Tax Holiday Scheme is one kind of special scheme taken by NBR to enhance rapid industrialization in Bangladesh for specific newly established industrial undertakings.
2. The main objectives of Tax Holiday Scheme are to encourage formation of domestic capital as well as attracting FDI to enhance the rapid industrialization of the country.
3. To continue tax holiday benefit 30% of the exempted income should be invested within one year from the end of the exemption period, in the same undertaking/new undertaking.
4. To continue tax holiday benefit 10% of the exempted income should be invested in each year before the expiry of 3 months from the end of the income year in the purchase of shares of a company listed with any stock exchange.
5. The NBR shall give its decision regarding approval of tax holiday of an undertaking within forty-five days from the date of receipt of the application.
6. Income of any industry set up in any EPZ will enjoy exemption at different rates from tax for 5 to 7 years from the date of commencement of commercial production of the industry.
7. The DCT may forward to the Tax Recovery Officer a certificate for recovery of the tax from an assessee who is an assessee in default.
8. A person, who has paid more amount as tax than as it actually would be chargeable under the ITO, 1984, shall be entitled to a refund of any such excess.
9. If a person makes false statements in any return or any other documents he is guilty of an offence punishable with imprisonment for a term, which may extend to three years, but shall not be less than three months, or with fine, or with both.
10. Tax planning is an effective tool to minimize tax burden of a taxpayer.

Multiple choice questions:

1. An industrial undertaking set up in Dhaka between 1st July, 2011 to 30th June, 2019 will be exempted from tax for the period of –
 - (a) 4 years
 - (b) 5 years
 - (c) 7 years
 - (d) 12 years
2. An industrial undertaking set up in Sylhet between 1st July, 2011 to 30th June, 2019 will be exempted from tax for the period of –
 - (a) 5 years
 - (b) 7 years
 - (c) 10 years
 - (d) 12 years
3. A Physical Infrastructure Facility set up in Dhaka between 1st July, 2011 to 30th June, 2019 will be exempted from tax for the period of –
 - (a) 4 years
 - (b) 6 years
 - (c) 7 years
 - (d) 10 years
4. If NBR rejects any application to sanction tax holiday, the applicant can apply for reconsideration within what period from the date of receipt of the Board's decision –
 - (a) 1 month
 - (b) 2 months
 - (c) 3 months
 - (d) 4 months
5. The NBR shall give its decision within how many days from the date of receipt of the application regarding approval for tax holiday –
 - (a) Twenty one days
 - (b) Thirty days
 - (c) Forty five days
 - (d) Sixty days
6. An industry set up in Dhaka EPZ will get 100% tax exemption facilities for-
 - (a) First 1 year
 - (b) First 2 years
 - (c) First 5 years
 - (d) First 7 years
7. To recover arrear tax from assessee in default the TRO can follow following modes, except –
 - (a) attachment and sale of any movable or immovable property of the assessee
 - (b) sale without attachment, of any movable or immovable property of the assessee
 - (c) arrest of the assessee and his detention in prison
 - (d) none of the above
8. Where a refund due to an assessee is not paid within two months of the date of claim for refund, a simple interest will be payable to assessee at a simple interest rate of –
 - (a) 5%
 - (b) 7.5%
 - (c) 10%
 - (d) 12.5%

9. How much is the minimum penalty for concealment of income –
 - (a) Imprisonment of 3 months
 - (b) Imprisonment of 1 months
 - (c) Imprisonment of 21 days
 - (d) Imprisonment of 2 months
10. Punishment for disclosure of protected information may extent imprisonment to –
 - (a) one month
 - (b) three months
 - (c) six months
 - (d) twelve months

Identify the following statements as True (T) or False (F):

1. Tax holiday period is same for all industrial undertaking set up in Bangladesh within stipulated time frame.
2. The Board can reject an application for tax holiday without giving the applicant a reasonable opportunity of being heard.
3. TRO recovers all arrear taxes from an assessee in default.
4. No one is entitled to get refund of tax
5. A public servant who discloses any protected information shall be punishable with imprisonment for a term which may extend to three months, or with fine

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 20 – 1:** What is Tax Holiday Scheme? What are the rules of tax holiday for Industrial Undertakings?
- Question 20 – 2:** “For approval of Tax Holiday for Industrial Undertakings, Tourism Industry and Physical Infrastructure Facility some conditions need to be fulfilled” – explain.
- Question 20 – 3:** Explain the approval procedure of tax holiday by the board.
- Question 20 – 4:** Explain the tax holiday scheme applicable for export processing zone.
- Question 20 – 5:** Explain various modes relating to recovery of tax.
- Question 20 – 6:** “A person who paid more amount as tax than as it actually would be entitled to a refund of any such excess” – explain.
- Question 20 – 7:** Explain rules regarding followings offences:
 (a) Punishment for False Statement in Verification
 (b) Punishment for Concealment of Income
 (c) Punishment for Disclosure of Protected Information
- Question 20 – 8:** Write short note on:
 (a) Tax holiday scheme
 (b) Recovery of tax
 (c) Refund of tax
 (d) Offences and prosecution
 (e) Tax planning

Answers:

Multiple choice questions		True/False
1. b	6. b	1. F
2. c	7. d	2. F
3. d	8. b	3. T
4. d	9. a	4. T
5. c	10. c	5. F

Self review 20 – 1:

Industrial undertaking: 5 years and Physical Infrastructure Facility: 10 years.

Self review 20 – 2:

Industrial undertakings:

1. That the industry is owned and managed by –
 - (i) a body corporate established by or under an Act of Parliament with its head office in Bangladesh.
 - (ii) A company with its registered office in Bangladesh and having a subscribed and paid up capital of not less than one lakh taka on the date of commencement of commercial production or operation.
2. That thirty percent of the exempted income is invested during the period or within one year from the end of the exemption period, in the same undertaking or in the new industrial undertaking.

Self review 20 – 3:

By TRO:

1. attachment and sale, or sale without attachment, of any movable or immovable property of the assessee;
2. arrest of the assessee and his detention in prison;
3. appointment of a receiver for the management of the movable and immovable properties of the assessee.

By Special Magistrates:

1. The DCT may forward to a, Magistrate of the First Class, specially empowered in this behalf by the Government to recover arrear taxes.
2. For the purposes of recovery of the default tax, the Special Magistrate may also exercise the power of a Civil Court.
3. The DCT, at any time, recall the certificate back from the Special Magistrate under reasonable circumstance.

CHAPTER – 21

VALUE ADDED TAX

● LEARNING OBJECTIVES ●

After studying Chapter 21 you shall be able to understand:

- ⊕ the concept of value added tax
 - ⊕ the advantages and disadvantages of VAT
 - ⊕ contribution of VAT in Bangladesh
 - ⊕ VAT mechanism
 - ⊕ charge of value added tax
 - ⊕ time and mode of the payment of VAT
 - ⊕ registration for VAT
 - ⊕ turnover tax and supplementary duty
 - ⊕ VAT authority
 - ⊕ Offences and penalties
-

21.1 INTRODUCTION

Value Added Tax is one of the most important sources of tax revenues in Bangladesh. Since its introduction in 1991, VAT is one of the most effective and efficient tools in resource mobilization. Value Added Tax has emerged as a principal instrument of taxing domestic consumption worldwide during last four decades. Its importance is also increasing in the developing countries because of its effectiveness in mobilizing local resources. The basic advantages of Value Added Tax can be stated as its neutrality, transparency, certainty and self policing mechanism.

21.2 HISTORY OF VAT

The origin of Value Added Tax (VAT) can be traced as far back as the writings of F Von Siemens, who proposed it in 1918 as a substitute for the then newly established German turnover tax. Since then numerous economists have recommended it in different contexts. However, it was not until 1953 that the value-added tax system was put in place in the United States or Europe. France was the first country to begin using value-added tax to partially replace its own turnover tax system in 1954.

In 1967 the Council of European Economic Community (EEC) issued directives for widespread adoption of value-added tax to replace existing turnover taxes and link EEC members with a common tax system. After the directive, countries outside the EEC such as Austria, Sweden, Brazil, Greece, and Peru also adopted some variation of the VAT, either in addition to or as a replacement for their own national tax structures.

From 1987 to 1997, value-added tax was introduced in many eastern European countries, the former Soviet republics, and Asia. China, Thailand, the Philippines, and Bangladesh all implemented the policy during the mid-1990s. By the early 2000s, VAT had become the a key component of the tax systems in more than 120 countries, with tax rates varying from 5 to 25 percent. Writing in *Finance and Development*, Liam Ebrill claimed that "the rapid rise of the value-added tax was the most dramatic-and probably most important-development in taxation in the latter part of the twentieth century, and it still continues."

21.3 EVOLUTION OF VAT IN BANGLADESH

In April 1979, the Taxation Enquiry Commission (TEC) officially took up the issue of introducing VAT in Bangladesh as an alternate to sales tax. Until 1982, sales tax was being collected under the Sales Tax Act 1951, which was replaced by the Sales Tax Ordinance 1982 with effect from 1 July 1982. The World Bank played the pioneering role in introduction of VAT in Bangladesh. A World Bank Mission visited Bangladesh for preparing an agenda for tax reform in Bangladesh in December 1986. The mission submitted its final report on 15 October 1989. The report recommended the introduction of a manufacturing-cum-import stage VAT at a single standard rate within three years. Thereafter, a Bangladesh Tax Mission visited India, Indonesia, the Philippines and Thailand during 13 November - 04 December 1989. The Mission submitted its report in January 1990. The government discussed the issues relating to introduction of VAT with all related private and public agencies including the various leading Chambers of Commerce and Industry from time to time. The government prepared the Value Added Tax Act 1990 (Draft) in June 1990.

Final version of the Value Added Tax Act was promulgated 31 May 1991 as a Presidential Ordinance with eight sections (relating to registration under VAT system and the appointment and powers of VAT authorities). It was made effective from 2 June 1991. The Value Added Tax Bill 1991 was introduced in the Parliament on 1 July 1991 and the Parliament passed it on 9 July 1991. With the Presidential assent to the bill on the next day it came into effect as The Value Added Tax Act 1991. The VAT Act 1991 replaced the Business Turnover Tax Ordinance 1982 and the Sales Tax Ordinance 1982 with effect from 1 July 1991.

The VAT Act 1991 is in vogue in Bangladesh for the last 22 years. During this period, a number of distortions gradually have crept into the system; namely: cascading effect, tariff value, truncated value base, Maximum Retail Price-based value, price declaration, Advance Trade VAT (ATV) at import stage, definition of services, deduction of VAT at source etc. In conformity with the sixth five-year plan (2012-16) of the government, NBR adopted a modernization plan in 2011, a component of which was reviewing of the taxation laws to eliminate these distortions and to establish standard taxation system in Bangladesh. In that process, drafting of a new VAT law started. It took more than two years to finalize the draft VAT Act. The VAT and Supplementary Duty Act, 2012 had been passed by the Parliament and which is expected to go in full implementation in 2017.

21.4 DEFINITION OF VALUE ADDED TAX

VAT is a tax, which is charged on the 'increase in value' of goods and services at each stage of production and circulation. It is levied on the added value that results from each exchange. It is also chargeable on the value of all imported goods. It differs from a sales tax because a sales tax is levied on the total value of the exchange. VAT is a simplified and transparent system of tax in which tax is levied on the value additions, at each stage in the production-distribution with provision of set-off of tax paid on earlier stage.

21.5 CHARACTERISTICS OF VALUE ADDED TAX

The basic characteristics of VAT are as follows:

- ❖ VAT is a general tax that applies on goods and services both.
- ❖ It is collected at every point of sale and the tax already paid by the dealer at the time of purchase of goods (input tax) will be deducted from the amount of tax paid at the next sale (output tax).

- ❖ It is a consumption tax because it is borne ultimately by the final consumer. It is not a charge on businesses.
- ❖ It is charged as a percentage of price, which means that the actual tax burden is visible at each stage in the production and distribution chain.
- ❖ VAT is paid to the revenue authorities by the seller of the goods, who is the "taxable person", but it is actually paid by the buyer to the seller as part of the price. It is thus an indirect tax.
- ❖ It is transparent and easier.

21.6 ADVANTAGES OF VAT

Value Added tax is becoming popular throughout the world because of its following advantages:

- ❖ One of the best reasons for instituting a value-added tax is that the system encourages personal savings and investment—principal elements of a healthy economy—by taxing only consumption.
- ❖ VAT has more revenue potential than other alternative indirect taxes.
- ❖ VAT system acts as a supplementary tax that can help make up for revenue lost due to income tax evasion. It is generally more broad-based and entails a trail of invoices that helps improve tax compliance and enforcement.
- ❖ Since VAT is carried through the retail level, it offers all the economic advantages of a tax that includes the entire retail price within its scope, at the same time the direct payment of the tax is spread out and over a large number of firms instead of being concentrated on particular groups, such as wholesalers or retailers.
- ❖ One particular advantage is that of the widening of the tax base by bringing all transactions into the tax net. Specifically, VAT gives the government the opportunity to bring back into the tax system all those persons and entities who were given tax exemptions in one form or another by the previous regime.
- ❖ A significant advantage of the value added form in any country is the cross-audit feature. Tax charged by one firm is reported as a deduction by the firms buying from it. Only on the final sale to the consumer is there no possibility of cross audit.
- ❖ VAT may be selectively applied to specific goods or business entities as a control mechanism. It may also effectively be used to protect local industries.
- ❖ It is more equitable and transparent.

21.7 DISADVANTAGES OF VAT

The main disadvantages which have been identified in connection with the Value Added Tax are:

- ❖ The "value added tax" has been criticized as the burden of it relies on personal end-consumers of products and is therefore a regressive tax (the poor pay more, in comparison, than the rich).
- ❖ Revenues from a value added tax are frequently lower than expected because they are difficult and costly to administer and collect.
- ❖ VAT increases inflation. In developing countries, some businessmen seize almost any opportunity to raise prices, and the introduction of VAT certainly offers such an opportunity.
- ❖ It is also argued that VAT places a heavy direct impact of tax on the labor-intensive firm compared to the capital-intensive competitor, since the ratio of value added to selling price is greater for the former. This is a real problem for labor-intensive economies and industries.

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- ❖ Certain industries (small-scale services, for example) tend to have more VAT avoidance, particularly where cash transactions predominate, and VAT may be criticized for encouraging this.

21.8 RATIONALES BEHIND INTRODUCING VAT IN BANGLADESH

Generation of appropriate resources for the government is essential for economic substance of any country. It is even more so important for the developing countries like Bangladesh on account of the wide gap between public revenue and expenditure. Taxation is one of the major sources of public revenue to meet a country's revenue and development expenditure. Bangladesh is one of the countries having a very poor Tax-GDP ratio. In this context, the objectives behind introducing VAT in Bangladesh were as follows:

1. Since VAT requires computerized records it provides for greater simplicity, transparency and authenticity in the current taxation system;
2. To increase the competitiveness of Bangladeshi industry by removing the cascading effect of the traditional sale tax system;
3. To consolidate the tax administration through proper integration among various tax collecting activities;
4. To activate the overall economy by mobilizing more internal resources which helps in encouraging personal savings and investment; and
5. To bring revenue neutrality in the long run under VAT regime that brings a consistent improvement in the tax-GDP ratio.
6. To encourage and result in a better- administered tax system that deters tax evasion.
7. To avoid the problem of under valuing, as all stages of production and distribution are subject to a tax.
8. To encourage the taxpayers by the input tax credit method ensuring better tax compliance;
9. To help in fiscal consolidation for the country in bringing a steady source of revenue reducing the debt burden.

Industry experts argue that the VAT system, if enforced properly, forms part of the fiscal consolidation strategy in Bangladesh. It could, in fact, help address the fiscal deficit problem and the revenues estimated to be collected could actually mean lowering of the fiscal deficit burden for the government. Further any globally accepted tax administrative system will only help Bangladesh integrate better in the World Trade Organization regime.

21.9 CONTRIBUTION OF VAT IN BANGLADESH

The concept of Value Added Tax (VAT) has been introduced in Bangladesh in 1991 replacing the outdated excise and sales tax regime. This shift was motivated by the argument that VAT (relative to sales tax) had a higher revenue potential, and that its collection and administration are more economic, efficient and expedient. Despite having various limitations in the adoption process, VAT has become the single largest source of government revenue exceeding customs. The following table will show a clear picture of VAT's contribution in Bangladesh economy:

	2008- 09	2009- 10	2010- 11	2011- 12	2012- 13	2013- 14	2014- 15	2015- 16	2016- 17
Tax-GDP ratio	7.9	8.0	8.6	9.1	9.7	9.7	9.9	9.0	10.8
Total Revenue (Crore Tk.)	69,180	79,484	95,187	114,885	139,670	156,671	163,371	177,400	242,752
Total Tax Revenue (Cr. Tk.)	55,526	63,956	79,052	96,285	116,824	130,178	140,677	155,400	210,402
Value Added Tax (Cr. Tk.)	20,116	22,795	28,274	34,304	40,466	45,877	49,573	53,913	72,764

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	2008- 09	2009- 10	2010- 11	2011- 12	2012- 13	2013- 14	2014- 15	2015- 16	2016- 17
% of VAT to Tax Revenue	36.23	35.64	35.77	35.63	34.64	35.24	35.24	34.69	34.58
Customs Duty (Crore Tk.)	9,570	10,430	10,915	12,664	14,568	13,474	15,134	17,153	22,494
% of Cust. Duty to Tax rev	17.24	16.31	13.81	13.15	12.47	10.35	10.76	11.04	10.69
Income Tax (Crore Tk.)	13,538	16,560	22,105	28,061	35,300	44,370	48,614	51,796	71,940
% of Income tax to Tax rev	24.38	25.89	27.96	29.14	30.22	34.08	34.56	33.33	34.19

[Source: Bangladesh Economic Review, 2017]

21.10 SCOPE OF BANGLADESH VALUE ADDED TAX LAW

Rules and regulations enacted in the following laws are taken into consideration to impose value Added tax on goods and services:

1. **Value Added Tax Act, 1991:** The Value Added Tax Act, 1991 (22 No. Act of 1991) came into force on 1st July, 1991. It has 73 sections, numerous sub-sections and three schedules containing necessary provisions for the purpose of imposing value Added tax.
2. **Value Added Tax Rules, 1991:** The National Board of Revenue prepared relevant rules under the name “Value Added Tax Rules, 1991” in accordance with the power authorized under Section 72 of Value Added Tax Act, 1991. The rules are followed in the administration of the VAT Act.
3. **Finance Act:** To give effect to the various proposals in the annual budget covering the areas of direct and indirect taxes, Finance Act is issued. It contains various applicable tax rates and amendments to the Value Added Tax Act and Rules, 1991.
4. **SRO (Statutory Regulatory Orders):** According to the Section 21 of the Value Added Tax Act, 1991; NBR can issue certain circulars as and when necessary. The provisions of these SROs are also to be considered at the time of imposing VAT.
5. **VAT Case Law:** In the course of assessment proceedings, the judgments given by the courts regarding the interpretations of any provisions of the VAT Act may also act as guidance to the assessing officers and the assessee in similar relevant circumstances.

21.11 SOME IMPORTANT FEATURES OF VAT IN BANGLADESH

The main features of VAT in Bangladesh are as follows:

1. VAT is imposed on goods and services at import stage, manufacturing, wholesale and retails levels;
2. A single stage VAT is applicable for both imports cum manufacturing.
3. A uniform rate of 15 per cent is applicable for both goods & services.
4. VAT is compulsory for whole sellers / retailers (for selected items).
5. VAT is applicable for all items (except some of the unprocessed agricultural products) & forty six listed services.
6. Exports are zero rated.
7. VAT is payable at the time of supply of goods and services.
8. Turnover tax @ 3 per cent is leviable where turnover amount is less than Tk. 80 lac.
9. Some industries like Agro-based, Cottage industries are exempt from VAT.
10. Tax paid on inputs is creditable against output tax.
11. Tax returns are to be submitted on monthly or quarterly or half yearly basis as notified by the Government.
12. Luxurious and socially undesirable goods are subject to supplementary duties at different rates ranging from 10 per cent to 500 per cent.

SELF REVIEW 21 – 1

What are the rates applicable for: (i) VAT (ii) Turnover tax and (iii) Supplementary duty?

21.12A THE VAT MECHANISM

1. **The value added: how to measure it:** The VAT, by definition, is the tax on the value added at each stage of a production-distribution chain. The value added, in turn, can be defined in two alternative ways. First, value added is equivalent to the sum of wages to labor and profits to owners of the production factors including land and capital. Second, value added is simply measured as the difference between the value of output and the cost of inputs. The two ways of definition of value added give rise to three major alternatives for computing the VAT liability as described below:
2. **Three alternatives in VAT computation:** Whatever is the method of computing the tax-base or VAT payable, final result of VAT-liability under all the following computing methods shall be equal:
 - i) **The Addition Method:** The value added is computed by adding all the payments that is payable to the factors of production (viz., wages, salaries, interest payments etc). If t_1 and t_2 are the rates on wages and profits respectively, then the tax liability will be the sum of $(t_1 \times \text{wages})$ and $(t_2 \times \text{profits})$.
 - ii) **The Subtraction Method:** The tax liability at any stage is equal to the tax rate multiplied by the tax base or value added measured as the difference between the values of outputs and inputs.
 - iii) **Tax Credit Method:** This is the most common method of the VAT computation. Under the tax credit method, a firm at any stage of the production-distribution chain charges its customers the VAT on its output, submits the tax to the treasury, and then claims for the VAT already paid on its input purchase. Let t_1 and t_2 be the tax rates on output and inputs respectively, then the tax liability is the difference between $(t_1 \times \text{output})$ and $(t_2 \times \text{inputs})$.
3. **Three Types of VAT Base:** There are 3 types of VAT used around the world, each different in the ways those taxes on investment (capital) expenditures are handled. The most common is the *consumption method*, which allows businesses to immediately deduct the full value of taxes paid on capital purchases. The second is the *net income method*, which allows gradual deduction of VAT paid on capital purchases over a number of years, much like depreciation. The third type, *gross national product method* of VAT, provides no allowance for taxes paid on capital purchases. The name of this type of tax is derived from the fact that the tax base is approximately equal to private GNP. The consumption method is most favored among general populations because it most equally taxes income from labor and capital and promotes capital formation.
4. **VAT calculation Procedure: An Illustration¹** - The VAT calculation procedure is shown considering 15% VAT rate in the following table with explanation. In this regard, we assume one importer will import some goods, which will be supplied to a producer. The producer will produce goods by using the imported goods and the produced goods will be supplied to a wholesaler. The wholesaler will supply the

Courtesy: Dr. Md. Abdur Rouf, NBR.

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goods to a retailer who will sell it to an ultimate consumer. It is also assumed that the whole distribution-process will be an unbroken one.

Stages	Raw Material/ Input Value	Conver sion cost	Profit	Value Added	Output Value / Selling Price	Input VAT	Output VAT	Net VAT Payable
1. Importer – [Import of RM]	800	-	-	800	800	-	120	120
2. Importer – [Sale of RM to the Producer]	800	100	100	200	1000	120	150	30
3. Producer	1000	800	200	1000	2000	150	300	150
4. Wholesaler	2000	150	50	200	2200	300	330	30
5. Retailer	2200	50	50	100	2300	330	345	15
6. Consumer	2300	-	-	-	-	345	N/A	-
Total (Tk.)		1100	400	2300	2300			345

Note: Conversion cost refers to the cost incurred to convert raw materials into finished goods excluding profit.

Stage – 1: The importer imported some goods at Taka 800 (ex-VAT), on which he paid Taka 120 as VAT at 15 percent rate.

Stage – 2: The importer employed Taka 100 as conversion cost and Taka 100 as profit to sell the imported goods to a producer at Taka 1,000 (ex-VAT) and the importer collected Taka 150 from the producer as output-VAT. The value added at import-stage before further sale, was Taka 800 and then at the stage of further sale Taka 200 (= conversion cost Taka 100 + profit Taka 100). The importer paid Taka 120 (= 15 per cent of Taka 800) at import stage and Taka 30 at supply-stage to producer [= (output VAT Taka 150 collected from the producer – input VAT Taka 120 paid at import-stage) or (value added Taka 200 at supply-stage multiplied by 15 percent rate of VAT)] i.e. total Taka 150 is paid to the national exchequer.

Stage – 3: The producer, with his raw-material cost of Taka 1000 (ex-VAT), employed Taka 800 as conversion cost and Taka 200 as profit to sell the produced goods to a wholesaler at Taka 2,000 (ex-VAT), the producer collected Taka 300 from the wholesaler as output-VAT. The value added at production-stage before sale, was Taka 1000 (= conversion cost Taka 800 + profit Taka 200). The producer paid Taka 150 [= (output VAT Taka 300 collected from the wholesaler – input VAT Taka 150 paid at purchase from importer) or (value added Taka 1000 at production-stage multiplied by 15 percent rate of VAT)] to the Government Treasury.

Stage – 4: The wholesaler, with his goods purchased from the producer at Taka 2000 (ex-VAT), employed Taka 150 as conversion cost and Taka 50 as profit to sell the goods to a retailer at Taka 2200 (ex-VAT), the producer collected Taka 330 from the retailer as output-VAT. The value added at supply to retailer before sale, was Taka 200 (= conversion cost Taka 150 + profit Taka 50). The wholesaler paid Taka 30 [= (output VAT Taka 330 collected from the retailer – input VAT Taka 300 paid at purchase from producer) or (value added Taka 200 at production-stage multiplied by 15 percent rate of VAT)] to the national exchequer.

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Stage – 5: The retailer, with his goods purchased from the producer at Taka 2200 (ex-VAT), employed Taka 50 as conversion cost and Taka 50 as profit to sell the goods to a consumer at Taka 2300 (ex-VAT), the producer collected Taka 345 from the consumer as output-VAT. The value added at sale to consumer before sale, was Taka 100 (= conversion cost Taka 50 + profit Taka 50). The retailer paid Taka 15 [= (output VAT Taka 345 collected from the consumer – input VAT Taka 330 paid at purchase from wholesaler) or (value added Taka 100 at production-stage multiplied by 15 percent rate of VAT)] to the Government Treasury.

Stage – 6: Thus, the overall deposit to the Government Treasury is Taka 345 [= Taka 150 by importer + Taka 150 by producer + Taka 30 by wholesaler + Taka 15] paid by the ultimate final consumer.

21.12B SALES TAX VS. VAT

21.12B.1 Difference between Sales tax & VAT:

Sales tax	VAT
1. complex system	1. simplified tax system
2. different slabs of tax	2. only four slabs of tax
3. collected at one point i.e. first or last.	3. charged at each stage
4. no tax levied on value addition on subsequent sales	4. tax on each value addition
5. problems of multiple taxation	5. a set off is given for previous purchases
6. discouragement to disclosure	6. encouragement to disclosure

21.12B.2 Application of Sales Tax:

A manufacturer produces goods worth Rs 100 and on that he has to pay 15% sales tax, which is Tk 15, then its total sale price is Tk 115,

Manufacturer: $100 + 15 = 115$

$C.P + 15\% S.T = T.S.P$ (Total Selling Price)

Wholesaler purchases goods from the manufacturer at Rs 115 and adds Tk. 20 as a profit and 15% sales tax, so his total sale price is Tk. 155.25.

Wholesaler: $115 + 20 = 135 + 20.25 = 155.25$

$C.P + \text{Profit} = S.P + 15\% \text{ of } S.P = T.S.P.$

Retailer purchases the same commodity from the wholesaler at Tk 155.25 and adds Tk 24.75 as a profit which comes to Tk. 180 + 15% sales tax. Now total sale price comes to be Tk. 207.

Retailer: $155.25 + 24.75 = 180 + 27 = 207$

$C.P + \text{Profit} = S.P + 15\% \text{ of } S.P = T.S.P.$

In the whole procedure total collection by the government in the form of sales tax is Tk. 40. Government's total tax collection $= 15 + 20.25 + 27 = 62.25$.

21.12B.3 Application of VAT:

Manufacturer: $100 + 15 = 115$

$C.P + VAT = T.S.P$

Wholesaler: $115 + 20 = 135$, but he has to pay tax on $135 @ 115 = 20 @ 15\%$ ie. Tk. 3.

$C.P + \text{Profit} = S.P$

$$135+3=138$$

$$S.P+VAT=T.S.P$$

$$\text{Retailer: } 138+24.75 = 162.75 + 3.71=166.46$$

$$C.P+ \text{ Profit } =S.P+VAT =T.S.P$$

$$\text{Government's total tax collection } =15+3+3.71 =21.71$$

From the above illustration, it is clear that if sales tax and VAT are imposed on the goods whose cost price is same and same rate of taxes are imposed, in case of sales tax, Government collects Tk. 62.25 but in the case of VAT the total collection by the Government is only Tk.21.71

21.13 RELEVANT STATUTORY DEFINITIONS & IMPORTANT CONCEPTS RELATING TO VALUE ADDED TAX

Section 2 of the VAT Act - 1991 represents the definitions of some important terms, like:

1. **Exempted [Section 2(a)]:** means goods and services exempt from payment of value added tax under this Act;
2. **Output Tax [Section 2(b)]:** means value added tax imposed under this Act;
3. **Input [Section 2(c)]:** means-
 - (i) except labour, land, building, office equipment and transport, all raw materials (any gas and any material used as fuels), packaging materials, service, machinery and spare parts;
 - (ii) in the case of trading, goods imported, purchased, acquired or otherwise procured in any way for sale, exchange or transfer in any other manner;
4. **Input Tax [Section 2(d)]:** means value added tax paid on inputs imported by registered person or purchased by him from any other registered person and will also include vat deducted at source on goods at import stage;
5. **Tax Period [Section 2(e)]:** means a period of one month or such period as the government by notification in the official Gazette, fix in this behalf;
6. **Taxable Goods [Section 2(f)]:** means goods not included in the First Schedule;
7. **Taxable Service [Section 2(g)]:** means any service not included in the Second Schedule;
8. **Account Current [Section 2(i)]:** means an account maintained with the Commissioner by a registered person in a specified form in which details of purchases, sales, treasury deposits, payable and creditable value added tax and, where applicable, other taxes shall be entered;
9. **Turnover [Section 2(k)]:** means all money received or receivable by any person from supply of taxable goods produced or manufactured by him or rendering of taxable service for a particular period;
10. **Documents [Section 2(m)]:** means anything expressed or stated with the help of a letter, number, symbol or sign on paper or on any other material and shall include any kind of electronic data, computer program, computer tape, computer disk or any kind of media that holds any data;
11. **Specified Date [Section 2(o)]:** means, in the case of submission of a return, the 10th day of the month following the tax period;
12. **Consideration [Section 2(p)]:** means all money or value measurable in terms of money received or receivable against supply of goods or rendering of service;
13. **Goods [Section 2(p)]:** means all kinds of movable property, excluding shares, stocks, coins, securities and recoverable claims;

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14. **“Producer” or “manufacturer” [Section 2(q)]:** shall include any person engaged in any of the following activities, namely:-
 - (i) transforming or reshaping any matter by processing exclusively or by changing, transforming or reshaping such matter in combination with any other matter, material or component of production into a different specific matter or goods so that the said matter becomes useable differently or specifically;
 - (ii) any incidental or complimentary process to complete the manufacture of goods;
 - (iii) printing, publication, lithography or enameling process;
 - (iv) adding, mixing, cutting, liquefying, bottling, packaging, or repackaging;
 - (v) work of an assignee or trustee, liquidator, executor or superintendent, in case of bankruptcy of any manufacturer or producer, and work of any such person who disposes of the assets of such manufacturer or producer in his capacity as an entrusted person;
 - (vi) manufacturing or producing for monetary consideration any goods in his own plant, machinery or equipment using raw material or input owned by any other person;
15. **Commercial Importer [Section 2(qq)]:** means a person who imports goods, other than those specified in the First Schedule, and sells or transfers in any way without changing its shape, features, characteristics or quality to any other person in exchange of consideration;
16. **Commercial Documents [Section 2(qqq)]:** means book of accounts, files, documents or papers maintained by a person to record his commercial transaction showing financial condition of his business, namely :- debit voucher, credit voucher, cash memo, daily purchase and sale accounts, cash book, primary or journal book, bank account and accounts or documents related thereto, trial balance, ledger, financial statement and analyses, profit and loss account, profit and loss appropriation account, bank account reconciliation and balance sheet and all related documents including audit report;
17. **Trader [Section 2(qqqq)]:** means a person who sells or otherwise transfers to any other person in exchange of consideration any goods imported, purchased or otherwise acquired by him without changing its shape, feature, characteristics or quality;
18. **Person [Section 2(t)]:** includes any business organization, group of persons and association;
19. **Zero Rated Taxable Goods or Services [Section 2(v)]:** means goods or services exported or deemed to have been exported or any food or any material described in sub section (2) of section 3 on which value added tax or, where applicable, supplementary duty shall not be imposed and all other taxes and duties (excluding advance income tax and supplementary duty paid on such inputs, used for manufacturing producing export such goods as may be specified in this behalf by the Government by notification in the official Gazette) shall be refunded;
20. **Concerned Officer [Section 2(w)]:** means any value added tax officer authorized by the Board, by notification in the official Gazette, to perform certain duties under this Act;
21. **Total Receipts [Section 2(x)]:** means the total amount of money including commission or charge, except value added tax or advance income tax, received or receivable by a provider of taxable service in exchange of service rendered;

22. **Supply [Section 2(y)]**: means sale, transfer, lease or disposal in any manner, for a consideration, of goods manufactured or produced by a manufacturer or producer or of goods imported, purchased, acquired or otherwise procured by a trader and shall include the following activities, namely:-
- (i) use for personal, commercial or non-commercial purpose of goods acquired, produced or manufactured during the operation of a business;
 - (ii) auction or disposal of any goods in order to repay the debt of any person;
 - (iii) possession of any taxable goods by a person immediately before the cancellation of his registration;
 - (iv) clearance or removal of goods from the place of manufacture;
 - (v) any other such transaction, as may be specified by the government by notification;
23. **Local Value Added Tax Office [Section 2(z)]**: means the office of a superintendent of value added tax, any branch *under the control of a superintendent under value added tax* LTU and any other office specified by the Board by notification in the official Gazette;
24. **Divisional Officer [Section 2(zz)]**: means value added tax officer in-charge of a value added tax division office and any other officer, not below the rank of an Assistant Commissioner, of Large Taxpayers Unit of value added tax assigned to perform any of the duties of a division officer.

21.14 TYPES OF VALUE ADDED TAX

According to the provisions of the Value Added Tax Act, 1991, three different types of taxes are charged:

1. **Value Added Tax**: Importers, manufacturers and service providers, having minimum annual turnover of Tk. 80 lac, have to pay 15% tax on their value addition under Section 3 of the VAT Act.
2. **Turnover Tax**: Turnover tax @ 3 per cent is leviable on those persons and organizations whose turnover amount is not more than than Tk. 80 lac under Section 8 and Section 4 of the VAT Act and the VAT Rules respectively.
3. **Supplementary Duty**: Luxurious, non essential and socially undesirable goods are subject to supplementary duties at different rates ranging from 10 per cent to 500 per cent under Section 7 of the VAT Act.

21.15 GOODS AND SERVICES CHARGEABLE UNDER THE VALUE ADDED TAX ACT [SECTION 3(1)]

According to the Section 3(1) of the Value Added Tax Act, 1991, 15% VAT is imposed on following goods and services:

- (a) All goods imported in Bangladesh and supplied, except those stated in the First Schedule of the VAT Act;
- (b) All services provided or imported in Bangladesh, except those stated in the Second Schedule of the VAT Act;

Notwithstanding contained in Section 3(1), **zero rate tax** shall be imposed on following goods and services: (a) any goods or services exported or deemed to have been exported from Bangladesh; (b) food and other things supplied in accordance with section 24 of the Customs Act, 1969 to any transport leaving Bangladesh, for consumption in the transport outside Bangladesh.

Provided that provisions of zero rate tax shall not be applicable in the following cases, namely:-

- (a) any goods intended to be re-imported into Bangladesh;
- (b) such goods as have been presented for export in accordance with section 131 of the Customs Act but not exported, within thirty days of submission of the bill of export or extended time, if any, allowed by the Commissioner.

21.16 WHO WILL PAY THE VALUE ADDED TAX? [SECTION 3(3)]

According to Section 3(3) of the Value Added Tax Act, 1991, value added tax shall be paid by:

- (a) in the case of imported goods, the importer of the goods imported at import stage;
- (b) in the case of goods manufactured or produced in Bangladesh, the supplier at production or manufacture stage;
- (c) in the case of service, the provider of service;
- (d) In the case of service providing from outside the territory of Bangladesh, Service receiver; and
- (e) in other cases, the supplier and the receiver of service.

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Who will pay value added tax?

21.17 APPLICATION OF THE VALUE ADDED TAX RATE [SECTION 4]:

According to Section 4 of the Value Added Tax Act, 1991, the following provisions have to be followed in application of VAT rate:

- (1) Rate of VAT for the supply of taxable goods or services shall be the rate applicable to the goods or services at that time as per Section 6, sub-section (2) or (3), as the case may be.
- (2) In case of imported goods, value added tax shall be charged at the rate in force on the date of submission of bill of entry under section 30 of the Customs Act;
- (3) In case of imported service that are taxable, value added tax shall be charged at the rate in force at the time of payment for the service.

21.17.1 Zero-rated goods: Zero-rate means the particular supplies of goods and services are treated as taxable, but the rate of tax is zero, or nil. All exports and deemed exports of goods and services are zero-rated. Goods produced or manufactured in Bangladesh and required as provisions and stores on any transport leaving Bangladesh for consumption/sales in the transport outside Bangladesh are also zero-rated.

21.17.2 Difference between exemption and zero-rating: Exemption and zero-rating are significantly different. Businesses supplying only exempt goods or services are not required to fulfill any VAT formalities. They do not charge VAT on their outputs, nor are they able to take credit for any input tax. On the other hand, those dealing with zero-rated transactions have to be registered and fulfill all the VAT formalities. No tax is chargeable on their zero rated goods and services, but they can take credit for the input tax they have paid which relates to their zero rated supplies. This means that while zero-rated transactions are fully relieved from the burden of VAT, the cost to the consumer of tax-exempt goods and services includes the VAT levied on inputs although VAT is not levied on the sales.

21.17.3 Presumptive / Fixed VAT for small Traders and Retailers: Small traders and retailers, who have been taken the registration willingly, are required pay a flat rate VAT, which is

known as presumptive / Fixed VAT. The actual rate depends upon the location. The following rates are applicable in this regard:

Area	Highest amount of annual value addition	Rate of VAT	Minimum amount of VAT payable
Dhaka North Dhaka South & Chittagong City Corporation	Tk. 1,86,687/-	15%	Tk. 28,000
Other city corporation area	Tk. 1,33,334/-	15%	Tk. 20,000
Pourashava under district HQ	Tk. 93,334/-	15%	Tk. 14,000
Other areas of the country	Tk. 46,667/-	15%	Tk. 7,000

21.18 DETERMINATION OF VALUE FOR CHARGING OF VALUE ADDED TAX

According to Section 5 of the Value Added Tax Act, 1991, the value for charge of VAT would be determined as per the following provisions:

1. In the case of imported goods, the value would be the transaction value as determined under Section 25 or 25A of the Customs Act plus the amount of import duty, supplementary duty and all other duties and taxes, (if any), except advance income tax payable [Section 5(1)].
2. In the case of supply of goods, the value would be the price receivable by the producer or manufacturer or by the business person from the buyer which includes the cost of raw material, all cost of manufacture or production and, where applicable, any commission, charge, fee, all other duties and taxes including supplementary duty (except value added tax) and profit [Section 5(2)].
3. The Board may in case of production by a registered manufacturer of branded goods of another registered manufacturer, determine procedure for assessment of price of the said goods [Section 5(2A)].
4. The Government through official Gazette, can determine the price of goods upon which VAT shall be payable based on retail price which the manufacturer or the producer shall fix up with approval of the Government officer and which shall include all expense, commission, charges, duties and taxes. The goods shall be sold to the general consumers at such price (which shall be printed on the body of the goods or on each of its packages, sacks, sachets or cells distinctly, conspicuously and indelibly) after adding the specific brand or mark to such goods [Section 5(3)].
5. For rendering service, VAT shall be imposed on the total receipts. However, in the case of rendering any specific service, the Board may, by order, determine the amount of VAT on the basis of actual value addition or on the basis of specific rate of value addition fixed by it by notification in the official Gazette [Section 5(4)].
6. In the case of supply of goods by a registered or registerable trader, value added tax may be imposed, on the basis of total price received or deemed to have been received by the trader, to be determined in accordance with the rule, for his supply in any particular tax period [Section 5(4A)].
7. Goods on which trade discount is allowed, value added tax will be charged on the value of the goods after deduction of trade discount. Provided that the value after deduction of trade discount shall be shown in the invoice (challan patra) and the quantity of trade discount allowed shall be consistent with normal trade practice [Section 5(5)].

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8. Notwithstanding anything contained in this Section 5, considering public interest and when satisfied after due investigation, the Board can determine the tariff value of any taxable goods or service through official Gazette notification in order to charge VAT and Supplementary duty [Section 5(7)].

21.18.1 Tax Base for VAT:

Import stage [U/S - 5(1)]	Customs Assessable Value + Customs duty + Supplementary duty
Domestic / Local stage [U/S – 5(2)]	Goods (manufacturing): [Production cost + Profit and Commission (if any) + Supplementary duty and all other taxes (except VAT) (if any) Services: [Total receipts excluding VAT but including Supplementary duty (if any).]

Where, it is difficult to calculate the value, truncated base i.e. fixed value added i.e. 10%, 25%, 30% and 60% is used and net VAT is calculated using net VAT rate on value additions i.e. @ 1.5%, 2.25%, 4.5% and 9%.

21.18.2 Price declaration procedure for charging VAT or VAT & SD, as the case may be [Rule 3]:

Producers of taxable goods are required to submit information relating to the price of their products in accordance with VAT Rule 3 in Form “Mushak – 1”. This is considered as price declaration, which shall have to be submitted by any manufacturer or businessman to concerned Divisional Officer. The following information should be included at the time of price declaration:

- (a) description of goods;
- (b) value of inputs and where applicable, duties and taxes (other than VAT) paid on the inputs;
- (c) all direct and indirect expenses of the organization (other than income tax);
- (d) commission, charges, fees paid;
- (e) profit;
- (f) item wise value addition;
- (g) sales price including duties and taxes

Decision in the price declaration shall be made within 15 working days of its submission of application failing which the declared price shall be deemed to be accepted. When declared price is to be changed new declaration in Form “Mushak – 1” shall be submitted to the concerned divisional office before 7 working days of such change. Maximum 15% trade discount may be allowed for a period of 30 days notifying the concerned officer timely.

21.19 TIME AND MODE OF PAYMENT OF THE VALUE ADDED TAX

According to Section 6 of the Value Added Tax Act, 1991, the provisions with regard to time and mode of payment of the VAT are as follows:

21.19.1 Provisions with regard to time of payment of the VAT:

1. VAT on imported goods shall be paid at the same time and in the same manner as import duty is paid in accordance with the provisions of the Customs Act.
2. VAT will be payable upon goods manufactured or produced for carrying out or for expansion of business or on goods imported, purchased, acquired or procured in any

manner by a registered or registerable person at the time of one of the following events whichever occurs first:

- a) when the goods are delivered or supplied;
 - b) when an invoice relating to supply of the goods is issued;
 - c) when any goods are used personally or supplied for use of any other person;
 - d) when part or full payment is received.
3. Value added tax shall be payable when a taxable service is rendered by a registered or registerable person during the operation or expansion of his business at the time of any of the following activities, whichever occurs first, namely:-
- a) when the service is rendered;
 - b) when an invoice relating to the service is issued;
 - c) when part or full payment is received.
4. In case of imported service that are taxable, value added tax shall be charged at the rate in force at the time of payment for the service.

21.19.2 Provisions with regard to mode of payment of the VAT:

1. Notwithstanding anything contained in this section, the Board, in accordance to the rules, can make provisions for advance payment, including fixation of time and procedure of payment of the VAT and SD, as the case may be [Section 6(4)].
2. Notwithstanding anything contained in sub-section (4), the Board may direct through official gazette to use stamp or banderole or special sign or mark on the body of the package or container or pot of the goods, for the purpose of realizing value added tax or SD [Section 6(4A)].
3. Notwithstanding anything contained in the above sections, the Government may direct the service providers or receivers to collect or deduct VAT at source and deposit the same to the treasury through defined procedure of directives set by the Board [Section 6(4AA)]. Provided that, where service provider being under foreign aided project have already paid all above mentioned VAT properly to the govt treasury, VAT cannot be deducted at source again from such parties.
4. The person collecting or deducting VAT at source under subsection (4AA) must issue a certificate to the related service provider regarding the deduction or collection in a manner prescribed by the Board stating the following particulars [Section 6(4B)]:
 - a) the registration number of the value added taxpayer;
 - b) the total price or commission paid for the service rendered;
 - c) value of value added taxable service or commission;
 - d) the amount of value added tax collected or deducted; and
 - e) any other information required under the rules.
5. The party responsible to deduct VAT at source, will deduct 3% VAT on payable price at source subject to some condition [Section 6(4D)].
6. Both the supplier or service provider and the party that deducts TDS will be responsible for the deducted VAT amount [Section 6(4E)];
7. The supplier or service provider will not be released from the payment of the rest of the amount of VAT where a part of the total VAT has been deducted at source [Section 6(4F)]
8. If the service provider or the commission payer failed to deduct and deposit the VAT amount, then it will be collected from the service provider or commission payer including 2% interest on the due amount [Section 6(4G)]

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9. Value added tax payable on goods supplied or service rendered as per methods prescribed by the rules [Section 6(5)]
 - a) At import stage, with import duty;
 - b) At manufacturing or trading stage through current account and return;
 - c) In case of other goods and service, through return.

21.20 IMPOSITION OF SUPPLEMENTARY DUTY [SECTION 7]

According to the Section 7 of the Value Added Tax Act, 1991, luxurious, non essential and socially undesirable goods are subject to supplementary duties at different rates specified in the Third Schedule ranging from 10 per cent to 500 per cent. Supplementary duty shall be payable at same time and in same manner as are applicable for the payment of value added tax.

Determining the value of the goods or services for imposition of SD:

For the purpose of imposition of supplementary duty, the value of the goods or services shall be -

- (a) In the case of imported goods, the value as determined under Section 25 or 25A of the Customs Act, for the purpose of imposition of import duty;
- (b) in case of goods produced or manufactured in Bangladesh and in the case of other taxable goods, the price charged to the buyer in which value added tax or supplementary duty is not included;
- (c) in the case of service rendered in Bangladesh, the total amount received in which supplementary duty and value added tax is not included;
- (d) in the case of goods on which value added tax is imposed on the basis of the retail price, the retail price stated in section 5(3) of this Act, shall be considered to be the price of the goods for the purpose of imposing supplementary duty.

21.21 IMPOSITION OF TURNOVER TAX [SECTION 8]

If the annual turnover of any taxable goods supplier or service provider is not more than an amount of Tk. 80 lacs and who is not required to be registered under section 15, he shall pay turnover tax @ 3% on the annual turnover. In this regard, the turnover tax compliance related matters shall be governed by the VAT rules. Considering the public interest and after proper inquiry, the Board can exempt any goods or service from turnover tax or can direct any specified goods, class of goods or service provider to be under section 15 and shall pay value added tax, irrespective of annual turnover.

Turnover Tax Payment Procedure:

According to the Rule 4 of the Value Added Tax Rules, 1991, the following provisions are taken into consideration at the time of paying turnover tax:

1. If the annual turnover of any taxable goods supplier or service provider is not more than Tk. 80 lacs, he shall pay turnover tax @ 3% on the annual turnover [Rule 4(1)].
2. The person liable to pay turnover tax shall have to apply to the Superintendent for the enlistment of his name. If the superintendent is satisfied about the annual turnover of the applicant, he shall enlist the applicant providing BIN (Business Identification Number) within seven working days of the receipt of the application and shall issue him a certificate in this respect in Form "Musak-8". [Rule 4(2)].
3. A declaration mentioned projected turnover of the year and the manner of tax payment shall have to be made to the superintendent in form 'Mushak -2B' within 30

days of every succeeding years. If the information given on the declaration is considered to be acceptable to the superintendent, he shall after according approval to it, send a copy to enlisted person: Provided that, in certain cases the superintendent has the right to determine the amount of turnover after hearing.

4. An enlisted person shall have to pay turnover tax from the date immediately after enlistment [Rule 4(3)].
5. A enlisted person can pay annual turnover tax at a time. In this case, the turnover due shall have to be deposited in the Government treasury within 30 days after the enlistment, under the head 1/1133/Code of Concerned Commissionerate/0313 along with relevant documents [Rule 4(4)].
6. Registered person may also pay his turnover tax 'if he wishes' in monthly or quarterly basis. In such a case, the enlisted person shall have to pay, within 30 days from the date of enlistment, on monthly or quarterly basis one-twelfth and one-fourth, respectively, of the turn over tax in the manner laid down in sub- rule (4). The remainder of the turn over tax shall have to be paid, in the case of payment on monthly basis, within 15 days of the next month and in the case of payment on quarterly basis, within 15 days of the expiry of every three months along with relevant documents, in the manner laid down in sub-rule (4) [Rule 4(5)].

If the enlisted person fails to pay the turnover tax fixed by the superintendent, in the manner laid down in sub-rule (4) or (5), the superintendent may impose on him an additional tax at the rate of 2% per month on the unpaid amount, in addition to a fine not exceeding Tk. 5,000.

21.22 REBATE OF TAXES / TAX CREDIT ON INPUT TAX [SECTION – 9]

According to Section 9 of the VAT Act, 1991, the provisions with regard to rebate of taxes are:

1. A supplier or trader of taxable goods or provider of taxable service may, in every tax period, take credit on input tax against output tax payable on goods supplied or service rendered by him, except in the following cases, namely
 - (a) value added tax paid on inputs used in the production of exempted goods or for providing services;
 - (b) turn over tax paid on inputs procured from taxpayer falling within the scope of turnover tax;
 - (c) supplementary duty paid on input used in the production of goods or rendering of service;
 - (d) VAT paid on package reusable at any other time except for the first time;
 - (e) the VAT paid on such goods and service as are related to the construction, balancing, modernization, replacement, expansion, renovation and repair of any building or structure or establishment; purchase or repair of all kinds of furniture, stationary, air-conditioner, fan, lighting equipment, generator etc; architectural plan and design, vehicle rental or lease though directly related to production of taxable goods or service;
 - (f) various goods and services specified by rules, related to production or supply of taxable goods or rendering of taxable service, and value added tax in excess of the rate of value added tax paid on such goods and service;
 - (g) value added tax paid against expenditure on travel, entertainment, staff welfare and development activity;

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- (h) in the case of value added tax paid against inputs not included in taxable value base of goods mentioned in sub-section (2) of section 5;
 - (i) in the case of input tax paid on inputs purchased by traders mentioned in the second proviso to subsection (2) of section 5;
 - (j) the value added tax paid on inputs purchased by the provider of any specified service renderer as per provisions of sub-section (4) of section 5;
 - (k) input tax paid by traders mentioned in sub-section (4A) of Section 5;
 - (l) VAT paid on inputs purchased by a supplier who supplies goods or services at tariff value fixed as per provision of sub-section (7) of section 5;
 - (m) input tax paid and mentioned in invoice (Challan Patra) or bill of entry with registration number other than the registration number of the supplier or trader of goods or renderer of service;
 - (n) value added tax paid on goods under custody, or possession or occupancy of any other person.
 - (o) VAT paid on goods not recorded as per the rules prescribed methods.
 - (p) In case of goods cleared against Bank Guarantee, VAT included in the Bank Guarantee until settled;
 - (q) Goods or services valued more than Tk. 1 lac and if fully or partly paid other than through banking or electronic channel, VAT included thereon.
 - (r) Provided that if the taxpayer, in spite of having documents relating to input in his possession fails, for any reasonable ground, to enter, in the same tax period, all of his inputs into his premises of production, supply or service, he may, subject to completion of entry of such input into such premises, receive credit on such input on any date during the next two tax periods;
2. Where any person without having legal right to take inputs tax credit in the cases mentioned in subsection (1) takes such credit, the concerned officer may, notwithstanding anything contained in section 37, direct for necessary adjustment in the account current by or the return canceling the credit on input tax taken. Moreover, any person aggrieved by any order of the concerned officer under subsection (2), may raise a written objection against the said order to any officer of value added tax senior to the concerned officer. The said officer shall, after giving to the aggrieved person a reasonable opportunity of being heard, within fifteen working days will provide the decision which shall be considered as final.
 3. A supplier of taxable goods or renderer of taxable service who also supplies goods or renders service on which value added tax is not chargeable, may take, in the manner laid down by rules, credit of input tax against output tax in proportion to the total quantity of inputs used in the manufacture or production of the goods or service on which value added tax is payable.
 4. If tax-paid input is damaged or destroyed while preserved or stored in the place of production or place of rendering service or trading by the supplier of taxable goods or renderer of taxable service or trader, the input tax on the said destroyed or damaged goods shall be disposed of in the manner laid down by rules.

21.23 PROCEDURES OF INPUT TAX CREDIT IN RESPECT OF GOODS AND SERVICES [RULE – 19]

According to Rule 19 of the Value Added Tax Rules, 1991, the procedures with regard to rebate of input tax credit in respect of goods and services are as follows:

1. Any registered person can take rebate of VAT under Section 9 and as case may be VAT and other taxes, duties under Section 13 in the tax period against output tax payable by him in the same tax period for supply of goods and services [Rule 19(1)].
2. Notwithstanding anything contained in sub-rule (1), credit may be taken for the following payments in respect of a place, establishment or premises connected with the production or supply of goods or rendering of taxable service, namely:-
 - (a) **eighty per cent** of the VAT paid on the use of insurance, and distribution of gas and electricity; and
 - (b) **sixty per cent** of the VAT paid on the use of Telephone, Teleprinter, Fax, Internet, Freight Forwarders, Clearing and Forwarding agent, WASA, Audit and Accounting firm, Surveyer, Security Service, Legal Advisor, Transport Contractor and Letter of Credit [Rule 19(1a)].
3. In case of supply of taxable goods, the registered person shall write down input tax paid on inputs in "Credit" column shown in the Current account in the Form Mushak 18 after entering the whole amount of inputs into the production or business place including the bill of entry or Chalan containing the input purchased, the registration [Rule 19(2)].
4. Input tax under the sub-rule (2) can be adjusted after recording in the current account against output tax of the tax period in which tax payers' goods enter into the place of production, manufacture or business. Input tax where exceeds output tax, the excess shall be shown as a balance in the current account which can be adjusted against output tax of subsequent tax periods [Rule 19(2a)].
5. The registered person, who supplies both taxable and tax exempted goods, will take input tax rebate of the input tax on the purchased input by recording and adjusting in "Credit" column of the current account. At the end of the related tax period, the input tax paid on the input used for tax exempted goods will be shown in the "Payable" column of the current account [Rule 19(3)].
6. Registered person supplying taxable goods and export goods using inputs in the manufacture or production after paying VAT including other taxes and duties can obtain rebate of value added tax paid on inputs bought after their entrance into his place of manufacture or production against output tax payable on the supply of taxable goods, recording in the column "Treasury deposit and rebate" of the current account. He can obtain rebate on supplementary duty, excise duty and other duties and taxes (except advance income tax) paid on the inputs used in the manufacture or production of the goods exported during the said tax period, by recording in writing in column "credit" in the account current and he shall show it in the returns of the said tax period [Rule 19(4)].
7. A registered person rendering taxable services, may obtain credit for the input tax paid on the inputs used in the service rendered by him during the tax period and after taking credit, if the tax payable is more than the input tax paid, the excess payable tax shall be deposited in the government treasury; and if the input tax paid is more than the tax payable, the excess amount of the input tax shall be shown in the subsequent tax period in column "carried forward" in the account current and shall be adjustable successively against payable tax [Rule 19(5)].
8. Where a registered person renders both taxable and exempted service, the said person may take credit only for the input tax paid on the inputs used in the rendering of taxable service [Rule 19(5a)].

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9. Registered person, supplying taxable services and exporting such services where inputs have been used after payment of VAT and other duties and taxes can obtain rebate of the amount of taxes and duties except advance tax paid on the inputs of zero rated exports after the end of the tax period as per Section 13 against tax payable on the supply of taxable services in the tax period and shall show this in the concerned return [Rule 19(5b)].
10. A person who is a beneficiary under cottage industry, turnover taxpayer and producer of exempted goods shall not take credit on value added tax paid on inputs used in the production of his goods [Rule 19(6)].
11. A contract manufacturer of goods may take credit of VAT paid on inputs, used for production of goods other than the inputs supplied by the proprietor, on fulfilling the provisions of sec 9 provided the input is shown in the value declaration [R-19(7)].

21.24 CORRECTION OF ACCOUNTS AFTER PAYMENT OF OUTPUT TAX

Accounting to section – 10, if goods sold by a registered person are subsequently cancelled or returned, the VAT and Supplementary duty paid, as the case may be, relating to the said goods can be adjusted through the next return and the current account.

21.25 SETTLEMENT OF EXCESS INPUT TAX [SECTION 11]

Where, during any tax period, the input tax due becomes more than the output tax payable, the surplus input tax shall be brought forward by the registered person in the account current for next tax period and this will be treated as input tax in the later tax period.

21.26 EXEMPTION FROM VALUE ADDED TAX [SECTION – 14]

According to Section 14 of the Value Added Tax Act, 1991, the provisions with regard to the exemption from value added tax are as follows:

1. The Government may, by notification in the official Gazette, exempt importation or supply of any goods or class of goods or rendering of any service from VAT or supplementary duty imposable under this Act, subject to any limitation or condition specified in the notification [Section 14(1)].
2. The Board may, by special order, exempt importation or taking delivery of any goods and receiving of any service for implementation, on reciprocal basis, of any international/bilateral agreement, from VAT/supplementary duty imposable under this Act, subject to any limitation and condition specified in the order [Sec 14(1a)].
3. The Board may, by special order exempt specifying therein the reason in each case, import or supply of any goods or rendering of any service from value added tax or, where applicable, supplementary duty imposable under this Act [Section 14(2)].

21.26.1 List of Goods and Services Exempted from VAT: According to the Schedule One of the VAT Act, 1991, following goods have been exempted from VAT:

1. All Goods as listed in the Second Schedule of the Narcotics Control Act, 1990 (Act No. 20 of 1990), in case of production and manufacturing thereof in Bangladesh. Some of the examples are native liquor, Methyle alcohol, Rectified spirit, Foreign liquor produced in Bangladesh, Denatured spirit etc.
2. Goods listed against some specific Headings in the First Schedule of the Customs Act, 1969 under Harmonized Commodity Description and Coding System (H.S. Code). Some of the examples are live animals and meats thereof, Live fish (excluding

ornamental fishes), natural honey, live tree plants and seeds, vegetables, fruits, Ivory, tortoise shell, whalebone and whalebone hair, horns, antlers, hooves, nails, claws and beaks, etc. subject to certain conditions. Besides this, different circulars and SROs are issued from time to time declaring names of new goods exempted from VAT and SD.

21.26.2 Services Exempted from VAT: According to the **Schedule 2** of the VAT Act, 1991, certain services classified under 7 heads have been exempted from VAT under 7 categories:

1. Basic services essential to life;
2. Social Welfare Services;
3. Culture Oriented Services;
4. Finance and Finance Related Services;
5. Transport Service;
6. Personal Services;
7. Other Services.

The detail of the list is updated year to year through Finance Act and different SROs. The updated list can be found from the website of the NBR [www.nbr-bd.org]

21.27 REGISTRATION FOR VALUE ADDED TAX [SECTION – 15]

According to the Section 15 of the Value Added Tax Act, 1991, certain provisions are mentioned regarding the registration for value added tax:

1. Suppliers of taxable goods and services, importers of any goods and exporters of goods and services shall have to be registered with the concerned office as per methods prescribed in the Rule [Section 15(1)].
2. If any person supplies such goods or renders such service or carries on import and export trade from two or more places, he shall have to be registered separately for each place. Provided that where aforesaid business is conducted from two or more places and maintain the accounts and records centrally, the person may take the registration centrally through regular procedure as per the law [Section 15(2)].
3. If the concerned officer is satisfied that the application for registration is in order in all respects, he shall register the applicant and shall give him a registration certificate mentioning therein his business identification number [Section 15(3)].
4. If a registerable person fails to submit an application for registration and the proper officer, after due investigation, is satisfied that the person is under obligation to be registered under this section, the officer shall register the person and inform him and the person shall be treated as registered with effect from the date on which the registration became obligatory [Section 15(4)].
5. Notwithstanding anything contained in subsections (1), (2), (3) and (4) each registered person may be given unified registration number of VAT and Income Tax. Provided the Board may by a notification published in the official Gazette, determine the time and procedure of giving this unified registration number [Section 15(5)].

21.27.1 Procedure of Registration for Value Added Tax [Rule 9 & 11]: According to Rule 9 and 11 of the VAT Rules, 1991, the procedures to registration for VAT are:

1. If the annual turnover of the supplier of taxable goods or taxable service is not more than **taka seventy lacs**, he shall have to submit an application directly or through online for registration in Form 'Musak-6' to a Divisional officer or to an officer, not being below the rank of Assistant Commissioner specified by an order by the Board in this behalf [Rule 9(1)].

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2. If the turnover of any person exempted from registration under Section 16, exceeds Tk. 70 lacs during the continuous period of twelve months, in that case concerned person shall apply for registration to the above authority within thirty days of the expiry of such period [Rule 9(2)].
3. A person who intends to start the business of supplying taxable goods or rendering taxable service shall, before starting the business, apply to the concerned authority, if the annual turnover of the business is estimated to be at least taka 70 lakhs [R. 9(3)].
4. Where more than one taxable goods or service are supplied or rendered or import or exports are made from the same place of manufacture or rendering of service or import or export, only one registration shall be required [Rule 9(4)].
5. A person required to be registered shall, along with the application for registration submitted in Form Musak-7 a declaration containing particulars of premises, plant, capital machineries and fittings and goods to be produced or purchased and sold or stocked and major inputs thereof [Rule 9(5)].
6. A person who imports or exports any goods shall apply for registration under sub-rule (1) to the divisional office or to such officer of value added tax, not below the rank of Assistant Commissioner, as may be specified by order by the Board in this behalf [Rule 9(6)].

If the application for registration is considered to be acceptable by the concerned officer, he shall issue a registration certificate to the applicant in Form “Musak-8” within two working days of the receipt of the application. Moreover, for providing untrue information in the application he may also cancel the registration under the provision of Section 19 of the Act after giving the person reasonable opportunity of being heard [Rule 11].

21.27.2 Exemption / Relief from Registration [Section 16]: According to the Section 16 of the Value Added Tax Act, 1991, under the following circumstances the exemption or relief from registration will be applicable:

1. The Government may, by general or special order, exempt any person or class of persons from the requirement of registration under section 15, on the basis of the annual turnover to be received or received from his or their supply of taxable goods or rendering of taxable service. Provided that the exemption under this section shall be applicable only in the case of a person or class of persons whose amount of annual turnover as received or to be received does not exceed the amount fixed, from time to time, by the Government by notification.
2. The Board may, by general or special order, exempt any importer or exporter from the requirement of registration.

21.27.3 Self Registration [Section 17 and Rule 10]: Following provisions are to be followed for self registration [Section 17 of the VAT Act, 1991, and Rule 10 of the VAT Rules, 1991]:

1. Any person exempted from registration under section 16 may apply in the form and manner specified by rules, to the proper officer for voluntary registration, and being satisfied in all respects, the proper officer shall register the applicant and give him a registration certificate mentioning therein his business ID number [Section 17(1)].
2. Without prejudice to anything contrary contained in this Act, any seller, transferor or lessor of any goods manufactured, produced or imported into Bangladesh or any service provider specified in the Second Schedule, who is a person outside the scope of Section 15(1), may apply, in the form and manner specified by rules, to the concerned officer for voluntary registration as a supplier of taxable goods or renderer

of taxable service. Being satisfied in all respects, the concerned officer shall register the applicant and give him a registration certificate mentioning therein his business identification number and the person so registered shall be treated as a taxpayer under this Act and all provisions relating to tax assessment and payment under this Act shall apply to him [Section 17(2)].

3. The person intended to be registered voluntarily, shall submit an application to the local value added tax office **thirty days** before the commencement of the tax period in which he intends to be registered. The voluntarily registered person shall be required to pay value added tax or, where applicable, supplementary duty from the first day of the tax period subsequent to the date of registration [Rule 10].

21.27.4 Change of Information Relating to Registration [Section 18]: If a registered person intends to change the name, address or any other information given in the application for registration, he shall inform the concerned officer of such change at least **fourteen days** before the date of such change.

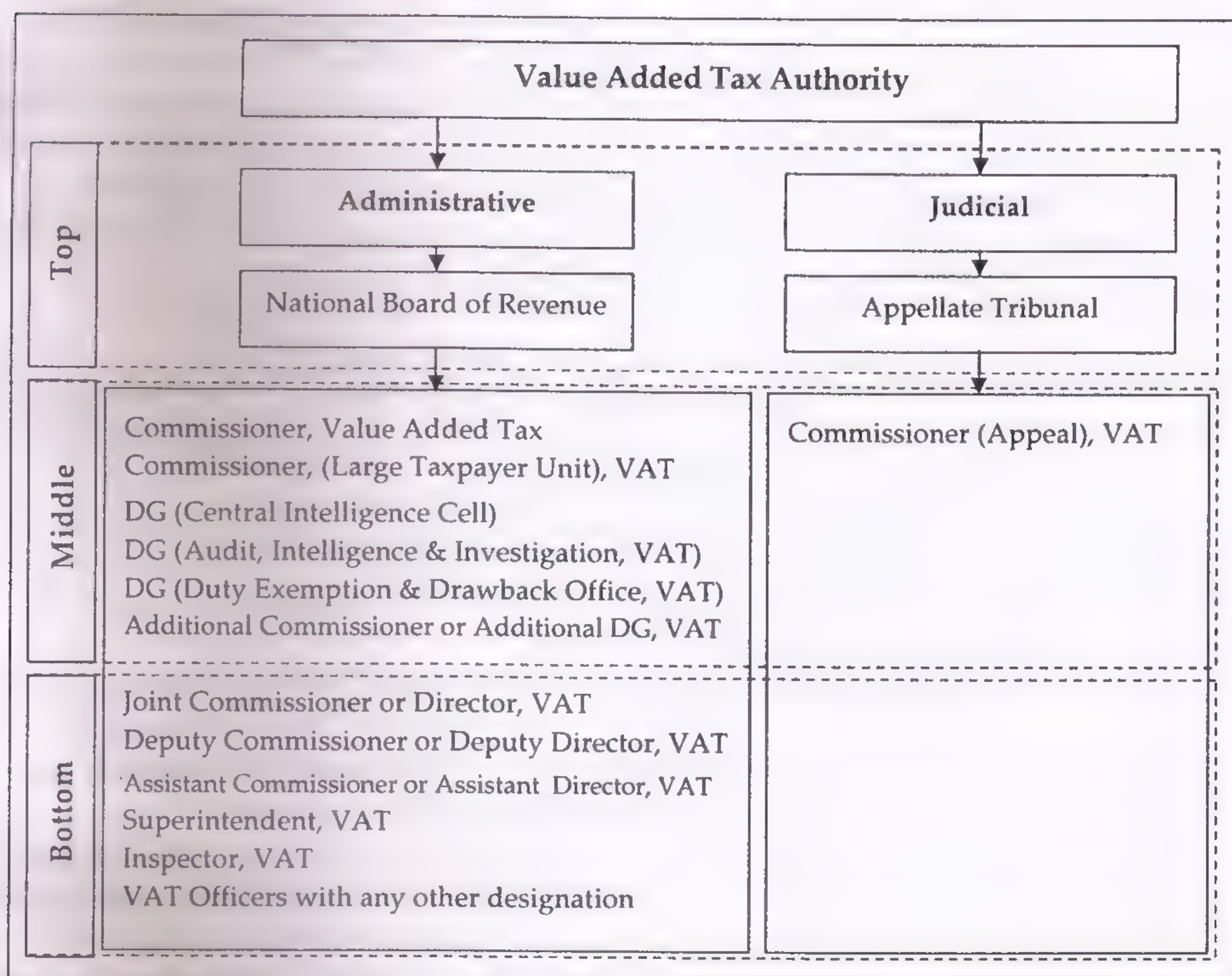
21.27.5 Cancellation of Registration [Section 19]: According to the Section 19 of the VAT Act, 1991, and Rule 15 of the VAT Rules, 1991, under the following circumstances the registration for VAT can be cancelled:

1. If any person registered or listed under Section 15 wishes to cancel his registration on the ground that his business is discontinued, he has to apply within 14 days of such discontinuation. The officer will cancel his registration or delist him in the prescribed manner mentioned in the rule if he is satisfied that he has no unsettled liability for VAT or SD [Section 19(1)].
2. If the concerned officer is satisfied on investigation that the registered person has obtained the registration by furnishing untrue information, after giving him reasonable opportunity of being heard, he may cancel the registration of the person after resolving the tax liability regarding VAT and SD [Section 19(1a)].
3. The concerned officer can cancel any registration, effective from the date specified by him, on an application made by a registered person whose turnover falls below the minimum level [Tk. 40 lacs] as per Section 16 and the applicant has no obligation to be registered under Section 15 [Section 19(2)].
4. A registered or listed person may also apply in order to cancel his registration under following circumstances [Rule 15(1)]:
 - (a) to be declared any goods or service exempt
 - (b) the annual turnover of a registered person voluntarily registered under section 17 of the Act being less than taka twenty four lakhs during the period of twelve months next following his registration;
 - (c) to be failure, after being registered, to start the business of manufacturing or producing or supplying of taxable goods or rendering taxable service;
5. The Divisional Officer of value added tax, if satisfied, on the recommendation of the superintendent given after necessary investigation, that the applicant is no more required under the law to remain registered and that he has no un-disposed of liability, he may cancel the registration of such person [Rule 15(2)].
6. Registration of a person if cancelled and their remains input tax rebate or current account balance from the date of cancellation, the person shall be entitled to refund in prescribed manner but conditions stated in Section 67(1) for refund claim within 6 months shall not be applicable [Section 19(3)].

21.28 VALUE ADDED TAX AUTHORITIES

According to Section 20 of the Value Added Tax, 1991, the Board appoints certain officials for the purpose of effective application of the VAT law and rules. These officials as a whole are known as Value Added Tax authorities. They hold the sole responsibility to execute the provisions of laws relating to VAT, TT and SD applicable in Bangladesh and to run various departments formed for streamlining the functions like identification of assesses, computation and collection of VAT and other relevant taxes, receiving application in this regard and appeal, settling the appeals, imposition of fines and penalties for offences etc.; even doing necessary adjustments in VAT law, as and when necessary.

21.28.1 Types of VAT Authorities: VAT authorities may be classified into two major groups depending on their functions and powers, namely



- 1. Administrative Authorities:** To look after the total administration of VAT wing starting from identification of assesseees to the collection of VAT, TT and SD from the assesseees. They are also responsible to maintain an effective co-ordination in administration, management and control among various VAT offices of the country.
- 2. Judicial Authorities:** To hear the claims of the assesseees and settle the claims through providing verdict as early as possible.

These two authorities with office bearers are depicted in the chart in order of their respective power, authorities and responsibilities.

21.28.2 Administrative Authorities: Powers, Functions and Responsibilities: It has already been discussed that the VAT officials as a whole are known as Value Added Tax authorities. VAT authorities may be classified into two major groups depending on their

functions and powers, namely (1) Administrative authorities; and (2) Judicial Authorities. In this section, the powers, functions and responsibilities of administrative authorities are discussed:

A. National Board of Revenue: National Board of Revenue (NBR) is constituted under the National Board of Revenue Order, 1972 [U/s 2(13)] and is given the highest executive authority under the Ministry of Finance. The NBR is empowered to make necessary rules concerning value added tax matters in Bangladesh. It is a body consisting of a chairman, members, officers and secretaries. The chairman and members are appointed by the Government and work under the direct control of the Ministry of Finance. The major powers and functions of the NBR in respect of the Value Added Tax Act, 1991 are as follows:

Sec:	Powers and Functions
3(5)	Power to declare and explain the scope of taxable goods and services.
5	Power to determine the rate and quantum of VAT in order to fix the VAT base or price or tariff value for certain goods or services.
6	Power to direct the method or timing regarding the payment of VAT, SD including advance payment.
8(3), 14	Power to declare any goods and services exempt from VAT, SD & TT.
8(4)	Power to direct that any specified goods, class of goods or service renderer shall be registered under section 15 and shall pay VAT, irrespective of annual turnover.
8D	Power to constitute or form LTUs.
13 & 66	Power to provide necessary directions to release certain goods without payment of VAT and to allow drawback of VAT on certain goods.
15 & 16	Power to determine the time and procedure of registration and exemption from registration.
20	Power to appoint VAT officials for the purpose of giving effect to VAT Act and Rules,
21, 22 & 23	Power to prescribe the VAT officials necessary guidelines to exercise the power and duties assigned or imposed on them.
26A	Power to appoint auditor, fixing reasonable remuneration and determining terms and conditions, to inspect stock of goods and to examine books of accounts of a registered or registerable person.
30	Power to manage the forfeited goods in any prescribed manner, subject to rules.
31	Power to specify the methods and procedures of account maintenance by a registered taxpayer.
43	Power to call for the relevant records and initiate proceedings.
44 & 71	Power to rectify any apparent error or incorrectness from the record of any order passed under the provisions of VAT Act.
46	Power to give license to any person to act as VAT consultant, subject to the conditions and procedures specified by rules.
71AA	Power to reward certain persons successful in detection of VAT evasion and non-compliance of VAT law
72	Power to make rules for fulfilling the object of the VAT Act.

B. Commissioner, Value Added Tax: The Commissioner, Value Added Tax is appointed by the National Board of Revenue. The term “Collector” has been renamed by the term “Commissioner” through the Finance Act, 1995. He is responsible to exercise the authority conferred on him by the VAT Act, 1991 and also can also exercise full authority while controlling the sub-ordinates within his jurisdiction and territory.

Powers & Functions of the Commissioner, Value Added Tax:

- (i) To exercise the powers conferred upon him by or under VAT Act and to perform the duty assigned to him. He may also exercise all powers conferred upon and perform all duties assigned to any of his subordinates [Section 21(1)].
- (ii) To exercise the activities relating to the determination and collection of VAT, SD and TT, as the case may be.
- (iii) He will administer and control the affairs of additional and joint commissioners.
- (iv) He may assign any of his subordinates to exercise the power of a commissioner in the whole or any specified area of his jurisdiction [Section 22(2)].
- (v) He has the power to issue summons to any person in writing mentioning the reason thereof for witnessing or submitting of any document or other material [Section 25]
- (vi) He has the right to enter place and premises of production, rendering of service, and trading to inspect stock of goods, service and inputs and to examine accounts and records, if necessary [Section 26]
- (vii) He may himself or order his subordinates to audit the tax and tax related activities of a registered or registerable institution on the basis of relevant rules and to submit the report within specified period [Section 26A]
- (viii) For fulfilling guidelines regarding the use of ‘stamp’ or ‘banderol’ as per Section 6(4A) of this Act, Commissioner may appoint one or more VAT officer and give them necessary directives for observation and surveillance in the place of production, supply, rendering of service or trading of a registered person and for ensuring supervised supply [Section 26B].
- (ix) He has the power to supply attested Photostat copy of documents regarding VAT subject to certain conditions [Section 34A]
- (x) He has the adjudication power to seize forfeitable goods and impose penalty where value of goods or taxable service exceeds Tk. 15 lacs. But in both cases he has to serve show cause notice to the owner of the seized goods within prescribed periods [Section 27 & 40].

C. Deputy Commissioner or Deputy Director, VAT: The term ‘Deputy Collector’ has been replaced by the term ‘Deputy Commissioner or Deputy Director’ through the Finance Act, 1995. They are appointed by the NBR and works under the direct supervision of the Commissioner, Additional Commissioner or Joint Commissioner. He may control and assign duties of the Assistant Commissioner and other VAT officers below his rank.

Powers & Functions of the Deputy Commissioner, VAT:

- (i) To exercise the activities relating to the determination and collection of VAT, SD and TT, as the case may be.

- (ii) To exercise the powers conferred upon him by or under VAT Act and to perform the duty assigned to him. He may also exercise all powers conferred upon and perform all duties assigned to any of his subordinates [Section 21(1)].
- (iii) He will administer and control the affairs of the assistant commissioners.
- (iv) He has the power to issue summons to any person in writing mentioning the reason thereof for witnessing or submitting of any document or other material [Section 25]
- (v) He has the right to enter place and premises of production, rendering of service, and trading to inspect stock of goods, service and inputs and to examine accounts and records, if necessary [Section 26]
- (vi) He has the adjudication power to seize forfeitable goods and impose penalty where value of goods or taxable service is not more than Tk. 5 lacs. But in both cases he has to serve show cause notice to the owner of the seized goods within prescribed periods [Section 27 & 40].

D. Superintendent, VAT: They are also appointed by the NBR and generally work under the supervision of Assistant commissioner, VAT. They are mainly engaged in activities like VAT assessment, recovery and other relevant activities in a local VAT office or circle.

Powers & Functions of the Superintendent, VAT:

- (i) To exercise the powers conferred upon him by or under VAT Act and to perform the duty assigned to him. He may also exercise all powers conferred upon and perform all duties assigned to any of his subordinates [Section 21(1)].
- (ii) To exercise the activities relating to the determination and collection of VAT, SD and TT, as the case may be.
- (iii) He will administer and control the affairs of the VAT Inspectors and other officers below that rank.
- (iv) He has the power to issue summons to any person in writing mentioning the reason thereof for witnessing or submitting of any document or other material [Section 25]
- (v) He has the right to enter place and premises of production, rendering of service, and trading to inspect stock of goods, service and inputs and to examine accounts and records, if necessary [Section 26]
- (vi) He has the adjudication power to seize forfeitable goods and impose penalty where value of goods or taxable service is not more than Tk. 1 lac. But in both cases he has to serve show cause notice to the owner of the seized goods within prescribed periods [Section 27 & 40].

21.28.3 Judicial Authorities: Powers, Functions and Responsibilities: If an assessee is not satisfied with the decisions of the administrative authority, he can move for appeal to the appropriate judicial authority. The main task of these authorities is to settle the appeal through proper investigation and hearing as per the provisions of the VAT law and rules, 1991. In this section, the powers, functions and responsibilities of judicial authorities are discussed:

- ❖ **Appellate Tribunal:** The Customs, Excise and Value Added Tax Appellate Tribunal is formed under Section 196 of the Customs Act, 1969. Appellate Tribunal is the

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highest judicial authority and the members of this are appointed by the government. The aggrieved assessee has the right to file an appeal to the Tribunal against any order/decision of the Commissioner, the Commissioner (Appeal) or any VAT Officer of equivalent rank. After proper investigation and hearing with the aggrieved party, the Appellate Tribunal issues the order/decision which is to be considered as final.

Formation of the Appellate Tribunal: According to the Section 196(1) of the Customs Act, 1969, the Government shall constitute an Appellate Tribunal to be called the Customs, Excise and Value Added Tax Appellate Tribunal which shall consist of as many technical and judicial members as it thinks fit to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act. The Government shall appoint one of the members of the Appellate Tribunal to be the President thereof.

Qualification of the members of the Appellate Tribunal: As per Section 196(2) & (3) of the Customs Act, 1969, sufficient numbers of technical and judicial members are appointed to form the Appellate Tribunal. The qualifications to be a member of the Appellate Tribunal are as follows:

- (a) **Qualifications to be a Technical Member:** A technical member shall be a person who has held [or is holding] the post of Member of the Board or has held [or is holding] the post of Commissioner of Customs and Excise or any equivalent post for at least two years.
- (b) **Qualifications to be a Judicial Member:** A judicial member shall be a person who has for at least ten years held a judicial office in the capacity of a District and Sessions Judge in the territory of Bangladesh or who has been a member of Bangladesh Civil Service (Judicial) and has held a judicial post for at least three years having earned pay in the selection grade of the scale of pay, or who has been an advocate for at least ten years in a court, not lower than that of a Court of District and Sessions Judge.

Powers and Functions of the Appellate Tribunal: Some important powers and functions of the Appellate Tribunal are as follows:

- (i) According to the Section 196C of the Customs Act, 1969, the powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the President from amongst the members thereof.
- (ii) The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order made earlier.
- (iii) The order of the Appellate Tribunal is considered as to be the final order.
- (iv) The Appellate Tribunal has power to regulate its own procedure and the procedure of the Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.
- (v) The Appellate Tribunal may, at any time within four years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it and shall make such amendments if the mistake is brought to its notice by the concerned officer or the other party to the appeal.

(vi) The Appellate Tribunal shall, for the purposes of discharging its functions, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters, namely-

- (a) discovery and inspection;
- (b) enforcing the attendance of any person and examining him on oath;
- (c) compelling the production of books of account and other documents;
- (d) issuing commissions.

❖ **Commissioner (Appeal), VAT:** They are appointed by the NBR and work under the direct control of the Board. They are directed by the Board to perform their judicial functions in respect of specified areas, persons or classes of persons as the case may be. The aggrieved assessee may appeal to them against the decisions of the Additional Commissioner or any VAT officer below that rank.

21.29 OFFENCES AND PENALTIES REGARDING VAT [SECTION 37]

According to Section 37 of the VAT Act, 1991, and Rule 4 & 35 of the VAT Rules, 1991, an assessee may be penalized for the following offences:

Offences	Penalties
1. As per Section 37(1), if any person:	
(a) fails to apply for registration under this ACT even when it is necessary for him to apply.	Fine of Tk. 10,000 to Tk. 20,000.
(b) fails to submit a return within specified date;	Fine of Tk. 10,000 to Tk. 20,000.
(c) fails to inform the VAT officer about any change of information related to registration;	Fine of Tk. 5,000 to Tk. 10,000.
(d) fails to comply with the direction of any summons under section 25;	Fine of Tk. 10,000 to Tk. 30,000.
(e) fails to maintain information in ECR, POS and computer;	Fine of Tk. 20,000 to Tk. 50,000.
(f) violates any other provision of this Act,	Fine of Tk. 10,000 to Tk. 30,000.
2. As per Section 37(2), if any person:	
(a) fails to submit return or submits false return;	i) a fine of an amount not less than equivalent amount and not more than 0.5 times of the amount of tax (VAT & SD) payable upon the goods or service;
(b) receives goods or services without tax invoice, despite being registered	
(c) does not pay tax even and fails to submit return within the specified time though notice has been served twice on him;	
(d) submits return incorrect on substantive grounds;	
(e) evade or attempts to evade VAT through exclusion of sales information in sales accounts book and vat payable amount in vat current account;	ii) a fine of at least Tk. 20,000 and not more than Tk. 50,000 in the case of other irregularities other than tax evasion.
(f) evade or attempts to evade VAT through exclusion of purchase information in purchase accounts book;	
(g) evade or attempts to evade VAT through submission of forged documents to VAT officer;	

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- (h) fails to submit documents specified by VAT officer against two orders.
 - (i) does not keep proper records, cash register or POS software accounts in accordance with this law or destroy/alter/ mutilate the records or make it false;
 - (j) makes consciously a false statement or declaration
 - (k) obstructs or prevents the access of tax officer to inspect or seize the records, books or other documents in relation to VAT;
 - (l) involves in transaction of or acquires goods even knowing that the tax has been evaded thereon;
 - (m) takes a credit of input-tax through forged or fake invoice;
 - (n) evades or attempts to evade value added tax or supplementary duty by any other means;
 - (o) issues challans stating therein the amount of VAT even without being a registered person;
 - (p) does not perform anything as required or perform something as not required under Section 6(4a).
 - (q) releases goods without maintaining the balance in the current account for paying output tax or adjusting against the deposit of money and input tax rebate, required under this Act or the Rules.
 - (r) does or abates in doing anything specified in the abovementioned clauses.
3. As per Section 37(3), if any registered service provider or VAT deducting authority fails to deposit tax or fine or other dues to the government treasury within prescribed time

Shall have to pay the unpaid tax liability together with 2% per month as additional interest.

[This provision shall not prejudice the function of any penal provisions regarding offence under the VAT Act and Rules.]
 4. If amount of VAT deducted at source is not deposited to government treasury in due time by the deducting party
 - i) Amount including interest will be collected from the party as if he was the supplier;
 - ii) Maximum fine Tk. 25,000
 5. As per Section 37(4), notwithstanding anything contained in any other provision of this Act, if a registered person fails to pay VAT (including SD) within 3 months after notice has been served twice or does any offense twice within 12 months under Section 38(2) or fails to register himself within 1 month from the date of the receipt of the notice under Section 15(4), then
 - i) if he is a registered person, his business premises may be locked up and his registration may also be cancelled; and
 - ii) if he is a registrable person, his business premises may be locked up.
-

6. As per Rule 4(13a), if a registered person fails to pay the turnover tax determined by the Superintendent as per the rules	He may be fined in maximum rate of Tk. 5,000 including excess 2% tax per month on unpaid amount.
7. As per Rule 35, if a registered person fails to comply with any provisions of the VAT Rules, 1991 shall be liable to	a penalty of an amount, being not less than 20%, and not more than 75%.of the amount of value added tax (including SD) and the goods or service (where applicable) related to such contravention shall be forfeited to the Government

Except in the case of punishment order given by a Special Judge Court, no penalty can be imposed of or business premises can be locked up under this section without giving the person concerned a reasonable opportunity of being heard, either in person or by his legal representative. A guilty person may be penalized by 3 months to 2 years jail or fined by the amount equal to VAT amount including supplementary duty or maximum 0.5 times fine or both [Section 37(6)].

21.30 CONFISCATION / FORFEITURE RELATING TO VAT

The provisions regarding forfeiture relating to VAT are as follows [Section – 38 and 39]:

21.30.1 Reasons of forfeiture [Section-38]:

1. If a registerable person manufactures or produces or deals in any taxable goods before registration, those goods shall be liable to forfeiture; or
2. If a registered person-
 - (a) removes any taxable goods from the place of business without an invoice;or
 - (b) supplies goods or renders service without paying the tax mentioned in the invoice or the tax applicable to concerned goods or service; or
 - (c) removes such taxable goods from the business premises with invoice which does not accompany the goods up to its destination;
 - (d) fails to comply with the provisions of 6(4a),

Those goods shall be liable to forfeiture and the said registered person, his representative or any person involved with the said activities shall be liable to a fine of an equivalent amount and not more than 0.5 times of the amount of the value added tax (including SD).

21.30.2 Scope of Forfeiture [Section 39]:

1. Forfeiture under this Act shall mean the package/container including goods therein.
2. Vehicle used in the transportation of forfeitable goods shall also be liable for forfeiture under this Act. *Provided that the officers stated in the Rules can allow interim release the seized vehicle carrying the goods during the period of pending adjudication.*
3. Forfeiture in the case of a vessel shall include its tackle, appliances and furniture.

21.30.3 Management of the Forfeited Goods [Section 30, Rule 36 & 37]:

1. The goods forfeited under the Act or these rules shall vest in the government forthwith and the officer giving the order of such forfeiture shall receive the forfeited goods and take them into his possession [Rule 36].

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2. The goods forfeited and the goods in respect of which the opportunity of payment of fine in lieu of forfeiture has not been availed of within three months from the date of forfeiture may be disposed of by the Commissioner through an open auction or tender or in any other manner as the Board may direct [Rule 37].

21.30.4 Seizure of Forfeitable Goods [Section - 27]: The provisions relating to the seizure of forfeitable goods are as follows:

1. Any authorized VAT officer, not below the rank of an Assistant Commissioner or Assistant Director, may seize any forfeitable goods and, where it is not possible to seize such goods, he may order the owner of the goods or the person under whose possession or supervision the goods remain not to remove, transfer or otherwise dispose of the goods without prior permission. *Provided that the case of seizure of goods of any registered person under this subsection, the officer may release the goods as per procedure and conditions prescribed by rules.*
2. Show cause notice has to be issued to the owner of the goods seized within **2 months** from the seizure. The notice will mention the reasons for seizure. An opportunity will be provided to defend against the charge brought or hearing through him or his legal representatives:
 - ❖ Provided that the Commissioner, recording the reasons, can extend the above two months period, for a period not exceeding another two months.
 - ❖ Provided further that the provisions of this sub-section shall not apply to a case where order of forfeiture of goods or imposition of fine is passed considering the written confessional application of the owner of the goods or related person and where such person consents in writing to abide by the order, without prejudice to right of appeal against the said order given without show cause notice.
3. If no show cause notice is issued within two months from the date of seizure or, as the case may be, the time extended by the Commissioner, the goods shall be returned to the person from whose possession it was seized.

21.31 TAX CHALLAN / INVOICE [SECTION 32]

Every registered person shall, at the time of supply of taxable goods or rendering of taxable service or export of goods or service or sale of taxable imported goods, issue challan (invoice) with consecutive serial number, in the form and manner prescribed by rules or in any other form and manner approved by the Board. Provided that:

1. not more than one challan (invoice) shall be issued for a single supply of taxable goods or sale of taxable imported goods or rendering of taxable service, or export of goods or service;
2. in a case where any person claims that original challan has been lost, the concerned supplier of goods or renderer of service may issue to him a duplicate copy of challan marked distinctly "Duplicate Only".

21.32 VAT RETURN AND ITS SUBMISSION [SECTION 35 & RULE 24, 25 & 26]

Generally VAT Return is considered as a regular report of sales and services subject to VAT which is required to be submitted by the firms registered for VAT. In the return the amount of tax liability will be mentioned.

21.32.1 Submission of VAT Return [Rule 24]: A manufacturer or produce or trader of taxable goods or renderer of taxable service shall submit a return to the concerned officer in the form and in the manner prescribed by rules for every tax period, showing therein all of his tax liabilities under this Act, within the specified date. According to Rule 24, following procedures are to be followed while submitting the VAT return:

1. Every manufacturer or producer or businessman of taxable goods or renderer of taxable service shall have to deposit in the local value added tax office two copies of a return in Form "Musak-19" for each tax period within 10 (ten) working days of the month next after the tax period. Provided that in the case of an Insurance company, for each tax period two copies of the return shall have to be submitted to the local value added tax office within 20 working days of the month next after the tax period.
2. A person, who supplies or exports goods after preparing or manufacturing, shall have to attach, along with the return, the following documents, namely:-
 - (a) original copy of the current account; and
 - (b) any other documents claimed by the Commissioner.
3. A person, who renders or exports taxable service, shall submit, along with the return, the following documents, namely:-
 - (a) original and duplicate copy of the treasury challan as a proof of payment of the tax payable during the tax period (where applicable), and
 - (b) any other documents claimed by the Commissioner.

21.32.2 Examination of Return [Section 36 & Rule 25]: As per Section 36 & Rule 24, the procedures relating to the examination of return are as follows:

1. The concerned officer shall examine according to the procedure prescribed by rules, the return submitted by a person under section 35 as soon as possible and, on examination, if it is proved that VAT/SD paid by him is less than the actual applicable amount, the said officer shall direct the person, by order, to pay the unpaid amount within seven days of the receipt of the order [Section 36(1)].
2. If more amounts are given, the concerned officer will give the taxpayer the opportunity to adjust the extra amount with the next year's VAT payable amount.
3. If the information and the documents attached in the return are found to be proper after examination by the inspector in-charge of the concerned revenue area and the Superintendent of the local value added tax office, both of them shall certify to that effect by putting their signature and affixing their seals separately and the concerned Superintendent shall return to the registered person a copy of the return so certified within not more than 60 (sixty) days and shall send the original copy to the Commissioner.
4. The Commissioner shall, on the basis of the return mentioned in sub-rule (1), take necessary step to ascertain as to whether the person who submitted the return has, during the relevant tax period, properly paid the output tax and taken input credit.
5. If a manufacturer or producer of taxable goods or service renderer exports 100 percent of the goods manufactured or produced or service rendered by him or suppliers or renders it partly, but the amount of tax eligible for credit on input paid by him in every tax period is more than the amount of output tax payable, the Commissioner shall, within 30 (thirty) days, send the original copy of the return submitted by the said taxpayer to the Directorate of Duty Exemption and Drawback office, for taking necessary action.

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6. If a registered person required to submit return, does not submit it on time for any tax period, the inspector in-charge of the concerned revenue area shall, within seven days of the expiry of the tax period, inform the Divisional Officer, through the concerned Superintendent, for taking necessary action against the said registered person.

21.32.3 Submission of Final Return [Rule 26]: If a registered person applies under rule 15 for cancellation of his registration, the Divisional Officer shall, after determining his liabilities, if any, relating to value added tax or supplementary duty, direct the applicant to submit within fourteen days a final return.

21.33 APPEAL [SECTION – 42]

According to Section 42 of the VAT Act, 1991 certain provisions have been incorporated regarding appeal by the aggrieved parties. They are as follows:

21.33.1 When and to whom can an aggrieved party appeal?

Any VAT officer or any person aggrieved by any decision or order given by a VAT officer under this Act or the rules, may appeal against such order, except against an order of seizure or sale given under section 56 in case of supply of goods or rendering of service or an order under section 98 or section 82 of the Customs Act in the case of import of goods, within ninety days of giving such decision or order as per the following procedures [Section 42(1)]:

Appeal against whose Decision / Order	Appeal to Whom
Additional Commissioner or any VAT officer below that rank.	The Commissioner (Appeal)
The Commissioner, the Commissioner (Appeal) or any value added tax officer of equivalent rank.	The Customs, Excise and Value Added Tax Appellate Tribunal formed under section 196 of the Customs Act

21.33.2 Settlement of Appeal: After receipt of an appeal the following steps are to be followed to settle the appeal:

1. If the appeal is preferred to the Commissioner (Appeal), he may make necessary enquiry or collect information and may uphold or amend or reject the earlier decision or give such new decision or order as he deems fit, after giving to the appellant reasonable opportunity of being heard. Provided that if the Commissioner (Appeal) is satisfied that the appellant could not prefer the appeal within the said ninety days time due to sufficient reason, he may permit the appellant to prefer an appeal within sixty days next following the said period [Section 42(1a)(a)].
2. If the appeal is preferred to the Appellate Tribunal, the Appellate Tribunal, shall, notwithstanding anything in this Act, dispose off the appeal following, as far as practicable, the provisions of the Customs Act regarding the said tribunal [Section 42(1a)(b)].
3. If any person intends to prefer an appeal under Section 42(1) against a decision or order relating to a demand of value added tax payable on any goods or service or to fine imposed under this Act, he shall have to the following amount of the fine imposed or tax demanded in the Government treasury or to a VAT officer authorized by the Government in this behalf., at the time of preferred his appeal [Section 42(2)]:

- (a) 10% of tax demanded or 10% of the fine imposed if the tax cannot be paid or; in the case of an appeal preferred to the Commissioner (Appeal),
- (b) 10% of tax demanded or 10% of the fine imposed if the tax cannot be paid; in the case of an appeal preferred to Appellate Tribunal against an order given by Commissioner or any VAT officer of his equivalent rank,
- (c) 10% of tax demanded or 10% of the fine imposed if the tax cannot be paid; in the case of an appeal preferred to the Appellate Tribunal against an order of the Commissioner (Appeal).

But, if any appeal is made against the order of the Commissioner (Appeal) as mentioned in (a), no amount is required to pay.

- 4. No appeal under sub-section (1) can be made when the Board has started proceedings with regard to any decision or order under section 43 [sec - 42(3)].
- 5. Notwithstanding anything contained in this Act, if the appellate authority fails to give any decision on the appeal within **nine months** from the date of its receipt, the appeal shall be deemed to have been granted by the appellate authority [Section 42(4)].
- 6. Any unsettled appeal or appeal at the implementation stage which is preferred before 1st October, 1995 will be transferred to the Appellate Tribunal on the mentioned date and will be settled as far as possible under Section 196 of the Customs Act [Section 42(5)].

21.34 REFUND OF EXCESS VAT [SECTION 67]

The tax payer can claim a refund of excess VAT or SD or TT paid due to negligence, mistake or wrong explanation and the above tax will be refunded in accordance with the procedure prescribed by rules. Provided that, the claim has to be made within **six months** of such payment otherwise no claim will be accepted. The aforesaid 6 (Six) months shall commence from the date of adjustment after final assessment in accordance with Section 81 of the Customs ACT.

Refund Procedures [Rules 34(a)]: According to Rule 34a of the VAT Rules, the following procedures are to be followed to claim refund:

- 1. In the case of claim for refund under section 67 of the VAT Act, the applicant shall have to submit to the concerned Divisional Officer or Commissioner of the Custom House or any officer, not below the rank of Assistant Commissioner, authorized by him in this behalf, the refund claim in Form "TR-31", in triplicate, within **six months** of the payment of the tax. *Provided that if Form "TR-31" is not readily available, the application may be submitted in plain paper instead of the said Form and must get it regularized through filling & submitting within 15 days of the submission of the application.*
- 2. The Divisional Officer or the officer-in-charge of the Custom House can approve the refund claim made under Section 67(1) upon verification of its reasonableness and making sure about the authenticity of deposit of the money demanded in the treasury actually. The officer approving the refund then shall send the refund bill to the Commissioner or officer-in-charge of the Custom House for pre-audit. If, on pre-audit, the bill is considered to be correct, the concerned officer shall, after countersigning it, preserve one copy of the bill for office record and send one copy to the concerned district accounts officer or to the chief accounts officer and one copy to the concerned Divisional Officer. *Provided that it shall have to be disposed of within 90 (ninety) days of the receipt of the application for refund claim.*

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3. The concerned branch under the control of the approving officer shall maintain a register for the purpose of maintaining the proper accounting records.
4. Notwithstanding anything contained in this rule, refund so claimed shall not be approved in a case where, at the local level, there is a provision and scope for adjustment of the money claimed as refund against the concerned registered person's input tax rebate.
5. In the case of processing of refund claim under this rule the relevant rules of the Bangladesh Treasury Rules shall apply.

21.35 KEEPING OF ACCOUNTS/DOCUMENTS RELATING TO VAT [S 31 & R 22]:

Any registered person shall have to duly maintain and preserve the following books in his place of manufacture or production or business or in the place of rendering service:

1. **Purchase Accounts Register:** In this register, information relating to purchase of taxable and tax-exempted goods or purchase of service shall be recorded in writing in Form "Musak-16";
2. **Sales Accounts Register:** In this register, information relating to supply of taxable and tax-exempted goods or rendering of service or export of such goods or service shall be recorded in writing in Form "Musak-17";
3. **Invoice Register:** Invoices printed according to Form "Musak-11" and, where applicable, in Form "Musak-11A" shall have to be so maintained in the bound book form that any page of it cannot be removed without tearing and in the invoices numbers shall have to be printed serially; and
4. **Current Account Register:** In this register, the description of transactions, the amount of payable output tax, output tax deposited in the treasury and output tax on which credit may be taken and information relating thereto shall be recorded in writing in accordance with Form "Musak-18". It will help to determine the net vat payable.
5. Statement of money deposited into the treasury through challans or to any bank approved by the government for this purpose.
6. The statement of stock of inputs and finished goods
7. The commercial documents of taxable and exempted goods and services
8. Any other books and records prescribed by rules

The Board through Government Gazette notification reserves the right to determine the methods and kinds of books and records to be preserved by any registered person.

Points to be remembered in keeping accounts:

- (a) The Commissioner may, on the basis of the application of a registered person, allow him to keep the above accounts through computer subject to certain conditions.
- (b) Moreover, a contract manufacturer should maintain separate records for goods manufactured under contract and for his own goods.
- (c) A registered person shall maintain the relevant accounts in such a manner as they may be easily audited.

21.35.1 Time limit for Preservation of Records [Section 33]: A registered person who has obligation to preserve the above records under section 31 shall have to preserve the records in Bangladesh for at least **four years** following completion of the tax period to which it relates. But if any case under this Act is pending against the registered person, the records for the relevant tax period shall have to be preserved until the final disposal of the case.

21.36 ALTERNATIVE DISPUTE RESOLUTION [SECTION 41A – SECTION 41K]

Through the Finance Act 2011, Alternative Dispute Resolution has been introduced to reduce the hassle in the settlement of pending VAT related disputes. The basic issues under this arrangement are as follows:

1. Notwithstanding anything contained in any provisions of the VAT Act, any dispute of an assessee lying with any VAT authority or VAT/Customs Appellate Authority may be resolved through Alternative Dispute Resolution (hereinafter referred to as ADR) in prescribed manner [Section 41A].
2. Board may, by notification in the official Gazette, specify the date and procedures to settle the disputes through ADR [Section 41B].
3. Any dispute of an assessee lying with any VAT Authority, Taxes Appellate Tribunal or Court may be considered as fit to resolve through ADR. Any VAT evasion or criminal offence related cases cannot be settled through ADR [Section 41C].
4. For the purposes of resolving a dispute in an alternative way, the Board may select or appoint Facilitator and determine his duties and responsibilities by rules [Section 41D].
5. An aggrieved assessee may apply for ADR of a dispute which is pending before any VAT Authority, tribunal or court in prescribed manner as per Section 41E.
6. The application of the aggrieved assessee will be processed and resolved by specified rules [Section 41F].
7. The application relating to disputes pending in any VAT Commissionerate must be resolved within 30 days and in case of issues pending in Commissioner (Appeal), Appellate Tribunal and Court within 50 days [Section 41G].
8. A dispute may be resolved by an Agreement either wholly or in part where both the parties of the dispute accept the points for determination of the facts or laws applicable in the dispute. The Facilitator shall record, in writing, the details of the agreement and terms of agreement regarding tax payment, fine or refund and notify the matter to the assessee, Commissioner and Board within 7 days. The agreement shall be void if it is subsequently found that it has been concluded by fraud or misrepresentation. Where no agreement is reached, the facilitator shall communicate the matter to the applicant and the Board, the concerned court, Tribunal, commissioner as soon as possible [Section 41H].
9. Where an agreement is reached, it shall be binding on both the parties and it cannot be challenged in any authority, Tribunal or court either by the assessee or any other tax authority. If the assessee fails to pay the agreed amount within stipulated time, it can be collected as per the provisions of Section 56 of the VAT Act, 1991. In case of delay payment, 3% interest will be imposed on a monthly basis [Section 41I].
10. Where an agreement is not reached, the assessee may prefer an appeal to the respective appellate authority or court. In computing the period of limitations for filing appeal, the time elapsed between filing of the application and the decision or order of the ADR shall be excluded [Section 41J].
11. No civil or criminal action shall lie against any person involved in the ADR process before any court, tribunal or authority for any action taken or agreement reached in good faith [Section 41K].

21.57 VAT CALCULATION

Illustration 21 – 1:

A purchases goods worth Tk. 20,000 from the manufacturer and adds value of Tk. 5,000, calculate the total sale price of the product, if VAT levied @ 15%.

Solution 21 – 1:

Cost price	= Tk. 20,000	
Value added	= Tk. 5000	
VAT (15%)	= Tk. 5,000 × (15 ÷ 100)	= Tk. 750
Total Sales Price	= Tk. 20,000 + Tk. 5,000 + Tk. 750	= Tk. 25,750

Illustration 21 – 2:

Ms. R purchases cotton fiber @ Tk. 50 per kg and 1 kg of fiber produces 2 meters of cloth. She again sold this cloth in the market @ Tk. 42.25 per meters, VAT levied on the cloth is 15%. Calculate the total VAT collected by the govt. in this whole transaction?

Solution 21 – 2:

Cost of cotton fiber	= Tk. 50
Selling price of cloth	= Tk. 42.25 × 2 = Tk. 84.5
Difference	= Tk. 34.5
∴ 34.5 = Value added + VAT	
	⇒ 34.5 = x + 0.15x (assuming value added = x)
	⇒ 34.5 = 1.15x
	⇒ x = 34.5/1.15
	⇒ x = 30

So, value added amount = Tk. 30 and VAT on it = (Tk. 30 × 15%) = Tk. 4.5

Illustration 21 – 3:

Mr. Sinha purchases 10 computers @ Tk. 17,500 per computer. On each computer he earns Tk. 2000 and pays VAT @ 15%. What will be the total sale price of these 10 computers and how much VAT he has to pay?

Solution 21 – 3:

Cost of one computer	= Tk. 17,500
Value added (profit)	= Tk. 2,000
Total	= Tk. 19,500
VAT (15%)	= Tk. 300
Selling price of one computer	= Tk. 19,800
Total selling price of 10 computers	= Tk. 198,000
Total VAT paid	= Tk. 3,000

Illustration 21 – 4:

A washing machine dealer, purchases 5 washing machines (WM) @Tk. 22,000 per unit and 2 WM @ Tk. 25,000 per unit from the company. After earning profit of Tk. 6,000 on each machine, the dealer sells 5 WM at Tk. 28,900 and 2 WM at Tk. 31,900. How much percentage of VAT he has paid and what is the total amount paid by him to the government as VAT.

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Solution 21 – 4:

Cost of 5 Washing Machines	= Tk. $5 \times 22,000$	= Tk. 110,000
Profit earned	= $5 \times 6,000$	= Tk. 30,000
Total	= Tk. 140,000	
Selling price	= Tk. $[5 \times 28,900]$	= Rs. 144,500
VAT Paid	= Tk. $(144,500 - 140,000)$	= Tk. 4,500
VAT (%) = $(4,500 \div 30,000) \times 100$	= 15%	
Cost of 2 Washing Machines	= Tk. 50,000	
Profit added	= Tk. 12,000	
VAT (15%)	= Tk. 1,800	
Total selling price	= Tk. 63,800	
\therefore Total VAT paid	= Tk. $(4,500 + 1,800)$	= Tk. 6,300

Illustration 21 – 5:

Suppose a computer dealer sells computer at Tk. 12,240 and he purchases the same computer at Tk. 8,000. VAT levied on computers is @ 15% but he gets rebate @5%. Calculate how much VAT he has to pay and how much is the total collection of VAT by the government.

Solution 21 – 5:

Cost Price = Tk. 8,000, Selling Price	= Tk. 13,500
\therefore Profit + VAT	= Tk. 5,500
VAT (%) = $(15 - 5) \%$	= 10%
\therefore 5,500	= profit + 10% of profit
	$\Rightarrow 5,500 = x + 0.1x$ (assuming profit = x)
	$\Rightarrow 5,500 = 1.1x$
	$\Rightarrow x = 5,000$
\therefore VAT paid	= Tk. $(5,500 - 5,000)$ = Tk. 500

Illustration 21 – 6:

A dealer purchases dish washer (DW) at Tk. 15,000 and further sells it at Tk. 20,200. If VAT levied on DW is 4%, calculate profit earned by him and how much VAT he has to pay to the govt. Also calculate the total VAT given to the govt. in this whole transaction.

Solution 21 – 6:

Cost Price of Dish washer	= Tk. 15,000
Selling Price	= Tk. 20,200
\therefore Difference	= Tk. 5,200
Let value added	= x
\therefore Tk. 5,200	= $x + 4\%$ of x
	$\Rightarrow 5,200 = 1.04x$
	$\Rightarrow x = 5,000$
\therefore Profit earned	= Tk. 5,000
VAT paid	= Tk. 200

Illustration 21 – 7:

Sumon purchases 100 Wall Clocks (WC) @ Tk. 70 per unit and he sold all these WC to Nikhil at Tk. 9,300 where he earns profit of Tk. 2,000. After adding value of Tk. 30 per unit Nikhil sells these WC in the market. If VAT is same on all these clocks, calculate how much VAT Sumon has to pay and at what price Nikhil sells these WC in the market.

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Solution 21 – 7:

Price paid by Sumon	= Tk. (100 × 70)	= Tk. 7,000
Profit earned	= Tk. 2,000	
Total	= Tk. 9,000	
Selling price (including VAT)	= Tk. 9,300	
∴ VAT	= Tk. 300	
∴ VAT (%) = $(300 \div 2000) \times 100$	= 15%	
Price paid by Nikhil	= Tk. 9,300	
Value added	= Tk. 3,000	
Total	= Tk. 12,300	
∴ VAT	= Tk. 3,000 × (15 ÷ 100) = Tk. 450	
Selling Price	= Tk. (12,300 + 450)	= Tk. 12,750

Illustration 21 – 8:

A wholesaler purchases 15 meters of cloth from the manufacturer @ Tk. 80 per meter and sells to the retailer after adding value of Tk. 20 per meter. The retailer sells the cloth and making a profit of Tk. 50 per meter. Calculate how much total tax was paid to the government in the whole transaction, through (i) VAT and (ii) Sales tax method, considering both taxes were levied @15%.

Solution 21 – 8:

(i)	Wholesaler's Cost Price	= Tk. 15 × 80	= Rs. 1200
	VAT (15%)	= Tk. 180	
	Total	= Tk. 1380	
	Value added	= Tk. 15 × 20	= Tk. 300
	VAT	= Tk. 300 × 15%	= Tk. 45
	Retailer's cost	= Tk. 1725	
	Value added by retailer	= Tk. 15 × 50	= Tk. 750
	VAT	= Tk. 750 × 15%	= Tk. 112.5
	∴ Net selling price	= Tk. 2587.5	
	Total VAT paid	= Tk. [180 + 45 + 112.5]	= Tk. 337.5
(ii)	Wholesaler's Cost Price	= Tk. 1200	
	Sales Tax (15%)	= Tk. 180	
	Total	= Tk. 1380	
	Value added	= Tk. 300	
	Total	= Tk. 1680	
	Sales Tax	= Tk. 1680 × 15%	= Tk. 252
	Total	= Tk. 1932	
	Value added by retailer	= Tk. 15 × 50	= Tk. 750
	Total	= Tk. (1932 + 750)	= Tk. 2682
	Sales Tax	= 15% of 2682	= Tk. 402.3
	Net Selling Price	= Tk. 3084.3	
	Total Sales Tax paid	= Tk. [180 + 252 + 402.3]	= Tk. 834.3

Illustration 21 – 9:

A manufacturer sold a TV set @ Tk. 20,000 to the wholesaler. The wholesaler sells it to a retailer @ Tk. 25,500 and the retailer finally sells it to the customer @ Tk. 31,000. If VAT or sales tax whatever is levied is 15% extra at every stage, calculate the total tax collected by the government through (i) VAT and through (ii) sales tax.

Solution 21 – 9:

- (i) Wholesaler's cost Price = Tk. 20,000
 VAT (15%) = Tk. 3,000
 Total = Tk. 23,000
 Since, he sells at Tk. 25,500, value added = Tk. 2,500
 \therefore VAT (15%) = Tk. 375
 \therefore Cost of Retailer = Tk. 25,875
 Retailer sells at Tk. 31000. Therefore, Value added = Tk. 5,125
 \therefore VAT (15%) = Tk. 768.75
 Hence, total VAT paid = Tk. [3,000 + 375 + 768.75]
 = Tk. 4,143.75
- (ii) When sales tax is paid
 Sales Tax by Manufactures = Tk. 3,000
 Sales Tax by Wholesaler = Tk. 25,500 \times 15% = Tk.3825
 Sales Tax by retailer = Tk. 31,000 \times 15% = Tk.4650
 \therefore Total Tax = Tk. [3,000 + 3825 + 4650]
 = Tk. 11,475

Illustration 21 – 10:

Math 3: A firm produces 100 units of an item per day and sells all at the rate of Tk. 20 per unit to the wholesaler. If the Wholesaler added Tk. 500 as his profit and sells to retailer who adds Tk. 1,000 while selling, then calculate the total tax collected by the government, through (i) VAT and through (ii) sales tax, if both taxes are levied @ 15%.

Solution 21 – 10:

- (i) Cost of wholesaler = Tk. 20 \times 100 = Tk. 2,000
 VAT = Tk. 300
 Total = Tk. 2,300
 Value added (by wholesaler) = Tk. 500
 VAT (15%) = Tk. 75
 Total = Tk. 2,875
 Value added by retailer = Tk. 1,000
 VAT (15%) = Tk. 150
 Total = Tk. 4,025
 \therefore Total VAT (Tax) = Tk. [300 + 75 + 150] = Tk. 525
- (ii) If sales tax is paid
 Cost of Wholesaler = Tk. 2,000
 Sales Tax = Tk. 300
 Total = Tk. 2,300
 Value added (by Wholesaler) = Tk. 500
 Total = Tk. 2,800
 \therefore Tax = Tk. 420
 \therefore Total = Tk. 3,220
 Value added by retailer = Tk. 1,000
 Total = Tk. 4,220
 Tax = Tk. 633
 Total = Tk. 4,853
 Total Tax Paid = Tk. [300 + 420 + 633] = Tk. 1,353

Chapter – 21: Value Added Tax

Illustration 21 – 11:

The following information has been taken from the accounting records of Unilever Bangladesh Limited for the year 2015:

Raw materials inventory, January 1 Tk. 90,000;
 Raw materials inventory, December 31 Tk. 60,000;
 Work in process inventory, January 1 Tk. 180,000;
 Work in process inventory, December 31 Tk. 100,000;
 Finished goods inventory, January 1 Tk. 260,000;
 Finished goods inventory, December 31 Tk. 210,000;

Purchase of raw materials Tk. 750,000; Direct labor Tk. 150,000; Manufacturing overhead Tk. 640,000; Selling expenses Tk. 140,000; and Administrative expenses Tk. 270,000. The company sells its product by adding 15% profit on cost. Determine the amount of VAT if the rate is 15%.

Solution 21 – 11:

Unilever Bangladesh Limited		
Schedule of VAT calculation		
For the year ended on December 31, 2015		
	Tk.	Tk.
Raw materials, January 1	90,000	
Add, Purchase of raw material	<u>750,000</u>	
Raw materials available for use	840,000	
Less, Raw materials, December 31	<u>60,000</u>	
Raw materials used in the production		780,000
Direct labor		150,000
Manufacturing overhead		<u>640,000</u>
Total manufacturing cost		1,570,000
Add, Work in process, January 1		<u>180,000</u>
		1,750,000
Less, Work in process, December 31		<u>100,000</u>
Cost of goods manufactured		1,650,000
Add, Finished goods inventory, January 1		<u>260,000</u>
Goods available for sale		1,910,000
Less, Finished goods inventory, December 31		<u>210,000</u>
Cost of goods sold		1,700,000
Add, Profit [1,700,000 × 15%]		<u>255,000</u>
Selling price		<u>1,955,000</u>

Value Added Tax:

VAT on output [1,955,000 × 15%]	= 293,250
Less, VAT on input i.e. Raw material used [780,000 × 15%]	= <u>117,000</u>
VAT payable	= <u>176,250</u>

VAT can also be calculated in the following alternative way:

Value addition = Output value (Selling price) – Input value (Raw material used)	
= 1,955,000 – 780,000	= 1,175,000
VAT payable = 15% on 1,175,000	= 176,250

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Illustration 21 – 12:

On January, 2016, Rahman International (Pvt.) Limited imported raw materials of school bags for Tk. 100,000 and sold it to Agfa Limited for Tk. 120,000. Using these materials, Agfa Limited made 150 pieces of school bags and sold it to Yousuf & Sons, a wholesaler, for Tk. 170,000. Yousuf & Sons sold the bags to a retail seller Jaman International for Tk. 200,000.

Jaman International sold all the bags to various customers for Tk. 250,000. In each case and each stage 15% VAT is to be considered.

Required: Compute VAT in each case.

Solution 21 – 12:

Stage	Particulars	Purchase price / input value (Tk.)	Value addition (Tk.)	VAT @ 15% (Tk.)
1	Import of raw materials by Rahman International (Pvt.) Ltd.	100,000	100,000	15,000
2	Sale of raw materials to Agfa Ltd.	120,000	20,000	3,000
3	Sale of school bags to Yousuf & Sons, a wholesaler	170,000	50,000	7,500
4	Sale of school bags to Jaman International, a retailer	200,000	30,000	4,500
5.	Sale of school bags to customers	250,000	<u>50,000</u>	<u>7,500</u>
Total			<u>250,000</u>	<u>37,500</u>

So, the total VAT amount is Tk. 37,500 which is ultimately borne by the final consumer.

Illustration 21 –13:

Mr. Jalil, an importer, imported chocolates of Tk. 100,000 (C&F value determined by the Bangladesh Customs Authority). The insurance charge is 1.5% of the C&F value, borne by the importer. Thereafter, 2% landing charge is applicable on these goods. Customs duty and supplementary duty rate are 15% and 10% respectively.

Required: Calculate the amount of VAT, assuming a rate of 15%.

Solution 21 – 13:

	Amount (Tk.)
C&F value of the imported chocolates	100,000
Add, insurance charge [1.5% of the C&F value i.e. Tk. 1,00,000]	<u>1,500</u>
Total of C&F value and Insurance Charge	101,500
Add, Landing charge [2% of Tk. 1,01,500]	<u>2,030</u>
Assessable value	103,530
Add, customs duty [15% of Tk. 1,03,530]	<u>15,530</u>
Sub-total before considering SD	119,060
Add, Supplementary duty [10% of Tk. 1,19,060]	<u>11,906</u>
Base value for VAT	<u>130,966</u>

So, the required amount of VAT will be = [15% of Tk. 130,966] = Tk. 19,645 (app.)

Chapter – 21: Value Added Tax

Illustration 21 – 14

Compute the invoice value to be charged and amount of tax payable under VAT by a dealer who had purchased goods for Tk. 120,000 and after adding expenses of Tk. 10,000 and of profit Tk. 15,000 and sold out the same. The rate of VAT on purchases and sales is 15%.

Solution 21 – 14:

Computation of invoice value:

	Tk.
Cost of goods Purchased	120,000
Add: Additional exp.	10,000
Add: Share of profit	15,000
Total invoice value	<u>145,000</u>

Computation of Tax payable:

	Tk.
VAT on Invoice Value @ 15%	21,750
Less: Input tax credit – VAT on purchases @ 15% (120,000 × 15%)	18,000
Total invoice value	<u>3,750</u>

Illustration 21 – 15:

Hasan Traders, an importer, imported 200 pieces of LED TV at CIF price @ Tk. 100,000 per piece. The clearing and other incidental charges amounted to Tk. 100,000 for the total consignment. He sold 80 pieces of TV to a whole seller at a markup of 10% (exclusive of VAT). The whole seller charged 10% mark up to sell it to retailers. The retailers incurred a cost @ Tk. 2,000 for maintenance and other expenses and added 10% mark up to the price.

Required: Compute VAT assuming that the retailers sold 60 pieces of TV in a trade fair among various customers in the month of June, 2014.

Solution 21 – 15:

Stage – 1: Importer	Tk.	Stage – 2: Whole seller	Tk.
CIF price of imported goods (Tk. 100,000 × 200)	20,000,000	Cost of purchase from importer	10,170,600
Add: Clearing and other charges	<u>100,000</u>	Less: Input VAT recoverable	<u>1,326,600</u>
Total cost of input	20,100,000	Net COGS	8,844,000
Input VAT recoverable	<u>Nil</u>	Add: Profit @ 10%	<u>884,400</u>
Net COGS (for 200 units)	<u>20,100,000</u>	Selling price excluding VAT	9,728,400
Net COGS (80 units)	8,040,000	Add: Output VAT @ 15%	<u>1,459,260</u>
Add: Profit (10%)	<u>804,000</u>	Selling price inclusive of VAT	<u>11,187,660</u>
Selling price excluding VAT	8,844,000		
Add: Output VAT @ 15%	<u>1,326,600</u>		
Selling price inclusive of VAT	<u>10,170,600</u>		

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Stage – 3: Retailer	Tk.	Stage – 4: Customer	Tk.
Cost from wholesaler (80 units)	<u>11,187,660</u>	Cost of purchase from Retailers	
Cost of 60 units	8,390,745	(60 units)	8,381,620
Less: Input VAT recoverable			
[14,59,260/80*60]	<u>1,094,445</u>		
Net COGS	7,296,300		
Add: Maintenance and selling costs (2,000 × 60)	<u>120,000</u>		
Total COGS	7,416,300		
Add: Profit 10%	<u>741,630</u>		
Selling price excluding VAT	8,157,930		
Add: Output VAT @ 15%	<u>1,223,690</u>		
Selling price inclusive of VAT	<u>83,81,620</u>		

Workings:

	Importer (200 units)	Wholesaler (80 units)	Retailer (60 units)	Consumer (60 units)
Output VAT	13,26,600	14,59,260	12,23,690	-
Less: Input VAT	--	<u>13,26,600</u>	<u>10,94,445</u>	
Gross VAT Payable	<u>13,26,600</u>	<u>132,660</u>	<u>129,245</u>	
Net VAT Payable	13,26,600*60/80 =994,950	132,660*60/80 = 99,495	129,245	

VAT to be borne by the consumer (for 60 units) = 994,950 + 99,495 + 129,245 = 12,23,690

KEY POINTS

1. Value added tax (VAT), or goods and services tax (GST), is tax on exchanges. It is levied on the added value that results from each exchange.
2. The Value Added Tax Act in Bangladesh has taken into effect from July 1, 1991.
3. VAT is an example of indirect tax, as the burden is ultimately borne by the final consumers.
4. In Bangladesh, the highest amount of tax comes from VAT, which is nearly 35% of the total tax revenue.
5. VAT is imposed on goods and services at import stage, manufacturing, wholesale and retail levels.
6. A uniform rate of 15 per cent VAT is applicable for both goods & services in Bangladesh.
7. VAT is payable at the time of supply of goods and services. Tax paid on inputs are creditable against output tax.
8. Turnover tax @ 3 per cent is leviable where turnover amount is not more than 80 lac taka.
9. Luxurious and socially undesirable goods are subject to supplementary duties at different rates ranging from 10 per cent to 500 per cent.
10. VAT returns are to be submitted on monthly/quarterly/half- yearly basis as notified by the Government.

Chapter - 21: Value Added Tax

Multiple choice questions:

1. Value Added Tax has been introduced in Bangladesh on –
 - (a) 1990
 - (b) 1991
 - (c) 1992
 - (d) 1993
2. The rate of VAT in Bangladesh is –
 - (a) 5%
 - (b) 10%
 - (c) 15%
 - (d) 20%
3. The rate of turnover tax in Bangladesh is –
 - (a) 3%
 - (b) 4%
 - (c) 10%
 - (d) 15%
4. If a registered person fails to submit the VAT return within the specified date, he may be imposed a maximum penalty of -
 - (a) Tk. 2,000
 - (b) Tk. 5,000
 - (c) Tk. 15,000
 - (d) Tk. 20,000
5. Importers, manufacturers and service providers, having minimum annual turnover of -----, have to pay 15% tax on their value addition as per the VAT Act
 - (a) 15 Lacs
 - (b) 24 Lacs
 - (c) 70 Lacs
 - (d) 80 Lacs
6. Which tax is not imposed as per the provisions of the Value Added Tax Act, 1991?
 - (a) Value Added Tax
 - (b) Customs Duty
 - (c) Turnover Tax
 - (d) Supplementary Duty
7. Which form is used for application regarding registration under the VAT Act-
 - (a) Mushak 5
 - (b) Mushak 6
 - (c) Mushak 10
 - (d) Mushak 16
8. What is the time limit for preservation of records for a registered person under the VAT Act, 1991?
 - (a) 1 year
 - (b) 2 years
 - (c) 3 years
 - (d) 4 years
9. VAT authorities are appointed as per the Section ---- of the VAT Act, 1991:
 - (a) 7
 - (b) 8
 - (c) 15
 - (d) 20

Bangladesh Income Tax – Theory and Practice

10. Which form is related to VAT invoice? –

- (a) Mushak 5
- (b) Mushak 9
- (c) Mushak 11
- (d) Mushak 16

Identify the following statements as True (T) or False (F):

1. Value Added Tax is a direct tax.
2. VAT is payable at the time of supply of goods and services.
3. VAT contributes the highest in the tax revenue.
4. All importers, manufacturers and service providers are to be registered as per the VAT Act, 1991.
5. Export is zero rated.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 21 – 1: Define value added tax? Discuss the advantages and disadvantages of VAT.
- Question 21 – 2: Discuss the characteristics of VAT in Bangladesh?
- Question 21 – 3: Discuss the scope of Bangladesh value added tax law.
- Question 21 – 4: What are the goods and services chargeable under the VAT Act, 1991 in Bangladesh?
- Question 21 – 5: Who has to pay VAT?
- Question 21 – 6: Explain the procedures of determining the value for charging VAT.
- Question 21 – 7: Discuss the time and mode of payment of value added tax.
- Question 21 – 8: Discuss the provisions of the imposition of supplementary duty.
- Question 21 – 9: Discuss the provisions of the imposition of turnover tax.
- Question 21 – 10: What do you mean by tax rebate?
- Question 21 – 11: What do you mean by registration for value added tax?
- Question 21 – 12: Discuss the procedures of the registration for value added tax.
- Question 21 – 13: Discuss the provisions of the cancellation of the registration for value added tax.
- Question 21 – 14: Discuss the powers and functions of the Commissioner, VAT.
- Question 21 – 15: Discuss the powers and functions of the Deputy Commissioner, VAT.
- Question 21 – 16: Discuss the powers and functions of the Superintendent, VAT.
- Question 21 – 17: Discuss the VAT Appellate Tribunal with its powers and functions.
- Question 21 – 18: Discuss the provisions for offences and penalties as per the VAT Act, 1991.
- Question 21 – 19: Discuss the powers and functions of the Commissioner, VAT.
- Question 21 – 21: Discuss the powers and functions of the Commissioner, VAT.
- Question 21 – 22: What do you mean by tax challan? Discuss the procedures of the delivery of tax challan.
- Question 21 – 23: Discuss the Provisions relating to the VAT Return and its submission.
- Question 21 – 24: What do you mean by forfeiture relating to VAT?
- Question 21 – 25: Discuss the procedures of appeal as per the provisions of the VAT Act?
- Question 21 – 26: Discuss the maintenance of documents relating to VAT.
- Question 21 – 27: What is ADR? Describe the role of ADR in resolving dispute.

Chapter – 21: Value Added Tax

Problem 21 – 1: A wholesaler bought 2 quintals of rice at Rs. 4,000 per quintal on which he added value of Tk. 750 per quintal. If VAT levied is @ 15% then what will be its total sale price?

Problem 21 – 2: A wholesaler purchases wheat @ Tk. 1000 per quintal, and then after converting the wheat into flour he sells it to the retailer @ Tk. 15.20 per kg. If he pays VAT @15%, calculate the total profit earned by the wholesaler.

Problem 21 – 3: Babu a garment merchant purchases garments worth Tk. 50,000. By adding his profit of Tk. 15,000 he sold the whole stuff at Tk. 66,200. Calculate at which rate VAT was levied and total collection of VAT by the govt.

Problem 21 – 4: A manufacturing unit of AC (Air Conditioner) sold an AC to the dealer at certain rate who further sold it to a customer at Tk. 22,800 making a profit of 50%. If VAT is levied @ 4%, calculate the rate at which AC was sold by the manufacturing unit to the dealer.

Problem 21 – 5: Gmart Electronics purchases 50 T.V. sets @Tk.10,000 per set and earns Tk. 5,000 on each set as a profit. If the company pays Tk. 25000 to the govt. as VAT, calculate at what rate VAT is levied on T.V. set.

Problem 21 – 6: Bob Robert purchases 200 electric steam irons @ Tk. 750 each and he earns Tk. 25 on first 50 irons, Tk. 50 on next 50 irons, Tk. 75 on next 50 irons and Tk. 100 on rest 50 irons. If VAT is levied @ 8%, calculate total VAT paid by Bob Robert to the government.

Problem 21 – 7: A wholesaler purchases 15 chairs from the manufacturer @Tk.100 per chair excluding tax and sells them to a retailer after adding value of Tk.50 per chair. Calculate the total tax paid to the government in these transactions by (i) sales tax method, and (ii) by VAT method, if sales tax or VAT is levied @15% at each stage.

Problem 21 – 8: A dealer purchases 30 kgs of wheat @Tk.10 per kg plus VAT and after earning a profit of Tk.5 per kg the dealer sells it to the retailer. The retailer finally sells it to a customer @ Tk.22.55 per kg including VAT. Calculate how much tax is collected by the Government through VAT which is 15% at each stage.

Problem 21 – 9: The following information has been taken from the accounting records of Unilever Bangladesh Limited for the year 2014: Raw materials inventory, January 1 Tk. 45,000; Raw materials inventory, December 31 Tk. 30,000; Work in process inventory, January 1 Tk. 90,000; Work in process inventory, December 31 Tk. 50,000; Finished goods inventory, January 1 Tk. 130,000; Finished goods inventory, December 31 Tk. 105,000; Purchase of raw materials Tk. 375,000; Direct labor Tk. 75,000; Manufacturing overhead Tk. 320,000; Selling expenses Tk. 70,000 and Administrative expenses Tk. 135,000. The company sells its product by adding 20% profit on cost. Determine the amount of VAT if the rate is 15%.

Problem 21 – 10: On January, 2014, REX Limited imported raw materials of readymade garments for Tk. 150,000 and sold it to Vertax Fashions for Tk. 200,000. Using these materials, Vertax Fashions made 250 pieces of shirts and sold it to Naz Fashion House, a wholesaler, for Tk. 250,000. Naz Fashion House sold the shirts to a retail seller Banglar mela for Tk. 300,000. Banglar Mela sold all the shirts to various customers for Tk. 350,000. In each case and each stage 15% VAT is to be considered. Compute VAT in each case.

Problem 21 – 11: Mr. Sumon, an importer, imported chemicals of Tk. 200,000 (C&F value determined by the Bangladesh Customs Authority). The insurance charge is 1% of the C&F value, borne by the importer. Thereafter, 1.5% landing charge is applicable on these goods. Customs duty & supplementary duty rate are 10% & 15% respectively. Calculate VAT, assuming a rate of 15%.

Answers:

Multiple choice questions		True/False
1. b	6. b	1. F
2. c	7. b	2. T
3. a	8. d	3. T
4. d	9. d	4. F
5. d	10. c	5. T

Self – review 21 – 1:

The applicable rates are:

- a. VAT – 15%
- b. TT – 3%
- c. SD – 10% to 500%

Self review 21 – 2:

According to Section 3(3) of the Value Added Tax Act, 1991, value added tax shall be paid by:

- 1. in the case of imported goods, the importer of the goods imported at import stage;
- 2. in the case of goods manufactured or produced in Bangladesh, the supplier at production or manufacture stage;
- 3. in the case of service, the provider of service; and
- 4. in other cases, the supplier and receiver of service.

CHAPTER – 22

GIFT TAX

LEARNING OBJECTIVES

After studying Chapter 22, you shall be able to understand:

- ⊕ the nature of gift and gift tax as used in Bangladesh
- ⊕ chargeability of and exemptions from gift tax
- ⊕ submission of return and assessment procedure
- ⊕ valuation of gift
- ⊕ rates applicable for charging tax on gift
- ⊕ the way of computation of taxable gift and gift tax liability

Gift tax is a direct tax imposed on taxable gift. 'Gift' means any transfer of ownership of movable or immovable property by one person to another willingly and without any profit. Property is evaluated at the current market price.

After the independence, Bangladesh adopted the Gift tax Act, 1963 with some changes and relevant modifications which was in force in Pakistan. Later, it was repealed in 1985 through section 4 of Finance Ordinance and came into force again on 1st July 1990 in the name of the Gift Tax Act, 1990 (Act No. 44 of 1990). In Bangladesh, gift tax is leviable on the taxable gifts made at the rates specified in the schedule to the Gift Tax Act, 1990. Such tax has been collected by the income tax authority since 1963 except for 1985-86 to 1989-90. Under the Gift-tax Act 1990, it is now payable by the donor and applicable only for gifts of domestic property donated except to spouse, blood-related family members and dependent relatives, government recognized educational, religious, charitable, disaster-management or medical establishments, local authorities and some other prescribed persons. In the line of income tax, progressive slab taxation is also applicable for taxable gifts.

22.1 DEFINITION OF GIFT

Generally, the word "Gift" means something that is bestowed voluntarily and without compensation to someone. As per section 2(f) of the Gift Tax Act 1990, 'Gift' means the transfer of any existing immovable or moveable property by one person to another, made voluntarily and without consideration of any money or money's worth. The value of property under gift (other than cash) will be the value which, in the opinion of the DCT, the property would fetch if sold in the open market on the date of gift. When a property is not saleable in the open market and such value cannot be determined, its value will be determined according to the rules prescribed for the purpose. Valuation methods of gift have been provided in the Section 5 of the Gift Tax Act, 1990.

22.2 SCOPE OF BANGLADESH GIFT TAX

Gift tax, its calculation and applicability in Bangladesh is guided by -

1. The Gift Tax Act, 1990 (Act No. 44 of 1990): The Gift Tax Act, 1990 came into force on 1st July 1990. It has 21 sections, numerous subsections and one schedule containing rates of gift tax with reference to Section 3.
2. The Gift Tax Rules, 1990: The Gift Tax Rules, 1990 is issued exercising the power vested through Section 21 of the Gift Tax Act, 1990. So far, 6 rules and 5 form formats have been issued by the NBR.

22.3 CHARGEABILITY

Every gift is not taxable under the act. Before charging tax on gift, some preconditions are required to be met as pointed out below:

1. Transfer of property, either movable or immovable, is a must.
2. Transfer of an existing property can be a gift. Any property that is not existed cannot be transferred as a gift.
3. Transfer must be made by one person (donor) to another (donee).
4. To be a gift, the transfer should be made voluntarily without fear and favor.
5. Transfer should be made without or with inadequate consideration in money or money's worth.

However, gifts made by the following are not taxable as per section 20 of Gift Tax Act 1990:

- (a) A body corporate established or constituted by or under any law; and
- (b) Any institution or fund, income whereof is exempt from income tax under paragraph 1 and 2 of Part A of the Sixth Schedule of ITO 1984.

Transfer might take in the form of release, discharge, surrender, forfeiture or abandonment of a debt, contract, actionable claim or any interest in property in favor of others. Where such release, discharge, surrender etc. is not bonafide, the value of the release, discharge, surrender etc. would be deemed gift. And, in the case of transfer of property with inadequate consideration, the amount, by which the market values of the property exceed the value of consideration, would be the deemed gift.

SELF REVIEW 22 – 1

(a) How to compute the amount of taxable gift in case of transfer of property with inadequate consideration? (b) Only movable property can be transferred and considered at the time of computing taxable amount of gift – Do you agree?

22.4 EXEMPTIONS

A number of gifts are exempted from tax under Section 4 of the Gift Tax Act, 1990:

1. Gift of property situated outside Bangladesh;
2. Where the beneficiary is the government or any local authority;
3. Gifts to any educational institutions including polytechnic institute recognized by any university or education board established under any law in force in Bangladesh or recognized or run by the government.
4. Gifts to any hospital recognized or run/aided by the govt. or any local authority.
5. Gifts to any flood/disaster management fund established/approved by the govt;
6. Gifts to any institution established in Bangladesh and approved by the Government or established and registered under any law in force for religious or charitable purpose in respect of a gift up to 20% (twenty percent) of his assessed income in the relevant assessment year or Tk. 100,000, whichever is less;
7. Gifts to dependent relative up to Tk. 20,000 on the occasion of his/her marriage;
8. Gifts by way of payment of policies of insurance or annuities to any person (other than his wife) who is dependent upon him for support and maintenance up to Tk. 20,000.
9. Gifts under a will;
10. Gifts in contemplation of death;
11. Gifts to sons, daughter, father, mother, his/her spouse, own brothers and sisters.

Chapter – 22: Gift Tax

Without prejudice to the above provisions, gift tax shall not be charged under this Act in respect of gifts made by any persons during any financial year subject to a maximum of Tk. 20,000 in the value; i.e. basic exemption is of Tk. 20,000. The government may also exempt any classes of gifts or persons from the tax payable under this Act by way of gazette Notification.

22.5 VALUATION OF GIFT

Rate of tax is applied on the market value of the gift. When market value of the gift is not available, the rules prescribed in Section 5 and Rule 6 of the Gift Tax Act and Rules, 1990 becomes applicable. The valuation of gifts is exemplified below from the perspective of legal provision.

Property	Prescription regarding Valuation
Cash	Amount of cash transferred
Property other than Cash	(a) If market value is known: The price that the property would fetch if sold in the open market on the date on which the gift was made [Section 5(1)]. (b) If market value is not known: The value shall be determined in the manner prescribed in the Gift Tax Rules [Section 5(2)] as stated below: 1. In case of gifted insurance policy, the amount of money that would be received by en-cashing the said policy would be the price. For example, surrender value of the policy on that date [Rule – 6(1)]. 2. In the case of shares of private limited company or firm, the value of share shall have to be determined in the proportion of asset of the concerned company or firm in the year in which share was gifted. For example, intrinsic value attributable to proportionate shareholding [Rule – 6(2)].
Others	The value as determined by the NBR.

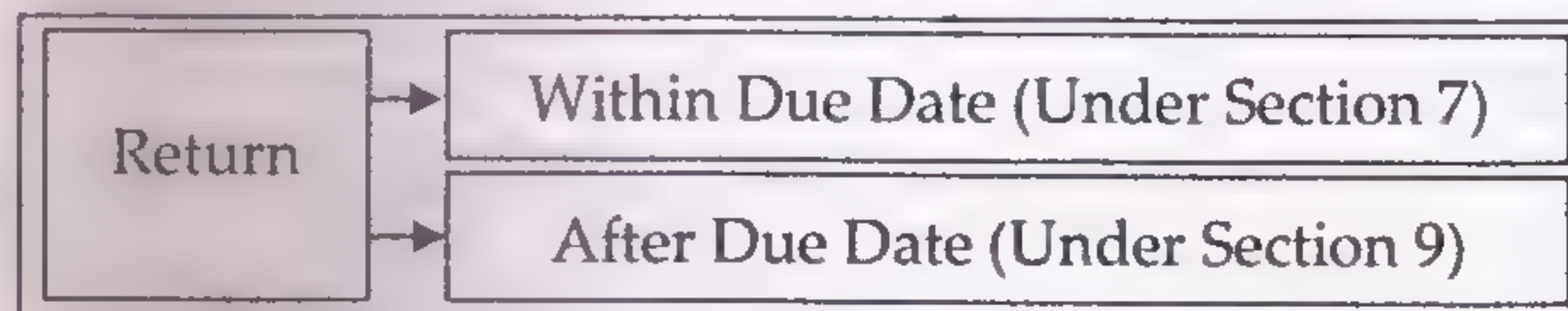
SELF REVIEW 22 – 2

(a) How much of gift is generally exempted from tax? (b) State the valuation of gift under each of the following situation: (i) Property that is salable in the market (ii) Insurance policy (iii) Proportionate share of a firm.

22.6 RETURN

- ⇒ Who is required to submit the return? **Ans:** Every person who has made any taxable gift.
⇒ When? **Ans:** Before the 15th day of September of the corresponding assessment year.
⇒ With whom? **Ans:** Deputy Commissioner of Taxes.

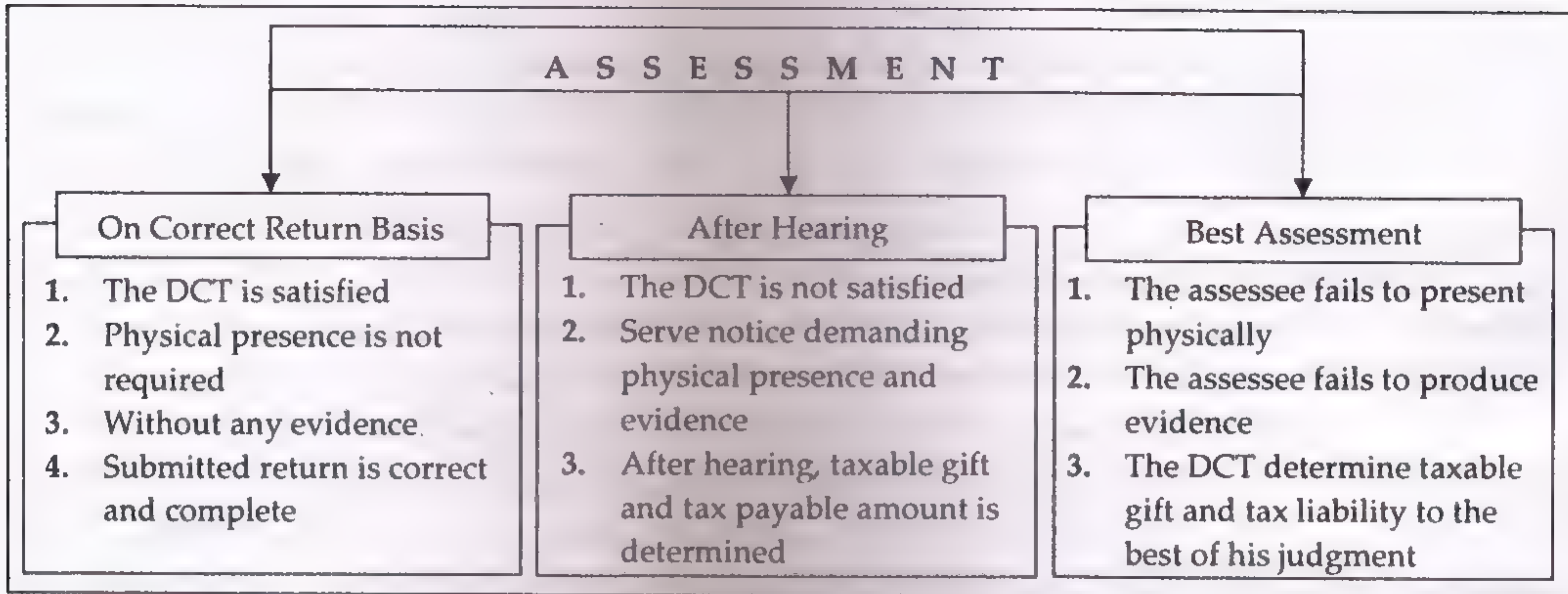
The return may be submitted within due date or even after due date.



1. **Within Due Date:** If the DCT believes that a person is liable to pay gift tax in respect of gifts made in a financial year under this act, he may serve a minimum of 30 days notice requiring the person to furnish a return in the prescribed form (Form 1) and manner. The DCT may also extend the date for the delivery of such return in his discretion. The person submitting return is liable to pay tax on or before the date of submission on the basis of the return. In failure without any reasonable cause, he shall be deemed to be an assessee in default.

2. **After Due Date:** If a person failed to submit return within due date or need corrections on the return already submitted, he may submit the return or do corrections at any time before the assessment.

22.7 ASSESSMENT



Once the return is submitted under either section 7 or 9, the DCT may be satisfied or may not be satisfied. If satisfied, the DCT shall determine the amount payable by the assessee as gift tax on the basis of the return submitted. But if he is not satisfied with the return, he shall serve a notice for producing evidence in support of his return and direct him to attend his office on a specified day. Then the DCT will examine the evidences and determine the gift tax payable by him after giving the assessee a hearing, if needed. If the assessee fails to produce supporting evidences, the DCT shall calculate the gift tax payable by him. Thus the assessment may take any of the three forms as given below:

22.8 PENALTY FOR DEFAULT AND CONCEALMENT

If any person deliberately furnishes inaccurate information in a return or fails to furnish a return even after receiving a notice from the DCT, he may be imposed a **penalty not exceeding fifty percent of the gift tax** determined by him. The said penalty shall be payable along with the amount of the gift tax. But regarding the imposition of penalty, no order shall be made unless the person concerned has been given a reasonable opportunity of being heard and prior approval is taken from the Inspecting Joint Commissioner of Taxes (IJCT). Any aggrieved party may appeal to an appellate authority as it was in the case of income tax.

22.9 NOTICE OF DEMAND

When any tax or penalty is due in consequence of any order passed under this Act, the DCT shall serve upon the assessee a notice of demand in the prescribed form specifying the sum so payable and time within which it shall be payable. The notice of demand to be given shall have to be provided in "Form – 3" specified in the Gift Tax Rules, 1990.

22.10 RECOVERY OF TAX AND PENALTIES

The provisions regarding recovery of gift tax and penalties are as follows:

- 1) If an assessee has presented an appeal u/s 12, the DCT, may in his discretion treat the assessee as not being in default as long as such appeal is not disposed of.

Chapter – 22: Gift Tax

- 2) If an assessee failed to pay any amount of gift tax or penalty specified as payable within the time specified in the notice of demand sent to him by the DCT U/s 13, he shall be deemed to be an assessee in default.
- 3) If the amount of gift tax or penalty payable under Section 13 is not paid within the specified period then it shall be deemed to be outstanding income tax under the Income Tax Ordinance, 1984 and shall be recoverable accordingly.

22.11 APPEAL

The provisions regarding appeal in the Gift Tax Act 1990 and Gift Tax Rules 1990 are as follows:

1. Any person aggrieved by the order of the Deputy Commissioner of Taxes or Tax Recovery Officer may prefer an appeal by “Form – 4” to the authority (Appellate Joint Commissioner of Taxes) as prescribed in the Income Tax Ordinance, 1984 [Section – 12(1) and Rule 5(1)(a)].
2. Any person aggrieved by the decision of the above appellate authority (Appellate Joint Commissioner of Taxes) can appeal for revision and reference by “Form – 5” to the authority (Appellate Tribunal) as prescribed in the Income Tax Ordinance, 1984 [Section – 12(1) and Rule 5(1) (b)].
3. A certified copy of the order against which appeal is being made must be enclosed with the application of appeal [Rule 5(2)].
4. Appeal, revision and reference under such circumstances will follow the method and procedure as prescribed in the Income Tax Ordinance, 1984.

22.12 RATES OF GIFT TAX

Gift tax is progressive like income tax with 4 tiers. The rates with the value of taxable gift are quoted below from the schedule of the Gift Tax Act, 1990:

Value of the taxable gift	Rates
1. On the first Tk. 500,000 of the value of all taxable gift	5%
2. On the next Tk. 1,000,000 of the value of all taxable gift	10%
3. On the next Tk. 2,000,000 of the value of all taxable gift	15%
4. On the balance amount of the value	20%

Illustration 22 – 1:

Mr. Karim has made gifts during income year 2016-17 as: (a) Cash gift of Tk. 150,000 on the occasion of marriage of his relative dependant on him. (b) Donated a house in Pakistan owned by him to a local hospital there. The market value of the house is Tk. 5,000,000. (c) Gifted a motor car to the son of his close friend in the event of his marriage ceremony. The car was purchased at Tk. 500,000. (d) Payment of annual dues regarding the life insurance policies of his brothers Mr. Rahim and Mr. Shahin; Mrs. Zerin (wife of Mr. Karim) and of himself. The amount being Tk. 20,000; Tk. 20,000; Tk. 30,000 and Tk. 35,000 respectively. Two brothers Mr. Rahim and Mr. Shahin is dependent on Mr. Karim. Compute the taxable gift and the gift tax thereon.

Solution 22 – 1:

Assessee: Mr. Karim

Computation of Taxable Gift for Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

	Tk.	Tk.
(a) Gift on the occasion of dependant relative's marriage	150,000	
Less: Exempted to the extent of Tk. 20,000 [U/s 4(1)(d)]	20,000	130,000

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(b) Donation of a house to a hospital in Pakistan	5,000,000	
Less: Fully exempted being property situated outside BD	5,000,000	-
(c) Gift of motor car to the son of a friend on marriage ceremony		800,000
(d) Payment of Premium on Life Insurance Policies: Mr. Rahim	20,000	
Mr. Shahin	20,000	
Total	40,000	
Less: Exempted up to Tk. 20,000 [dependant [U/s 4(1)(e)]]	20,000	20,000
(e) Payment of Life Insurance Premium of Mrs. Zerin		30,000
Total		980,000
Less: General Exemption [U/s 4(2)]		20,000
Taxable Gift		<u>960,000</u>

Computation of Gift Tax Liability: on first Tk. 500,000 @ 5% and on next Tk. 460,000 @ 10%. Therefore, total gift tax liability is Tk. 71,000.

Illustration 22 – 2:

Compute the taxable gift and the gift tax for Mr. Nikhil for the income year 2016 – 2017 considering:
Gift within Bangladesh: Gift to dependant sister a piece of land valued at Tk. 600,000; Gift to his brother the share of firm valued at Tk. 1,200,000 in contemplation of death; Cash donation to the youngest son for starting his own business, Tk. 800,000; Donation to: Prime Minister's Relief Fund Tk. 60,000; Dhaka University Tk. 150,000; Dhaka Ahsania Mission Tk. 120,000; Aga Khan Development Network Tk. 80,000; Ram Krishno Mission Tk. 100,000; Donated a house in Dhanmondi to his wife valued at Tk. 2,500,000; Gift to the younger brother a motor car costing Tk. 800,000 on the occasion of marriage. His younger brother is independent; Gift to a friend a house at Chittagong as a token of love. However, he has received consideration from his friend amounting to Tk. 150,000. The market value of the house is Tk. 900,000; Loan given to a friend amounting to Tk. 120,000 become uncollectible and written off as bad debt. **Gift Outside Bangladesh:** Donated a furnished flat to his sister-in-law in Nepal worth Tk. 500,000 and donated his office furniture to his son-in-law from his UK business office in the event of withdrawal of investment from UK valued at Tk. 460,000.

Solution 22 – 2:

Assessee: Mr. Nikhil

Computation of Taxable Gift for Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

	Tk.	Tk.
(a) Gift to dependant sister a piece of land	600,000	
Less: Fully Exempted [U/s 4(1)(h)]	600,000	nil
(b) Gift to brother the share of firm in contemplation of death	1,200,000	
Less: Fully exempted [U/s 4(1)(g) or (h)]	1,200,000	nil
(c) Cash donation to son for starting business	800,000	
Less: Fully Exempted [U/s 4(1)(h)]	800,000	nil
(d) Donation to Prime Minister's Relief Fund	60,000	
Dhaka University	150,000	
Dhaka Ahsania Mission	120,000	
Aga Khan Development Network	80,000	
Ram Krishno Mission	100,000	
Total	510,000	

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Less: Fully Exempted [U/s 4(1)(c)]	510,000	nil
(e) Donated a house at Dhanmondi to his wife	2,500,000	
Less: Fully Exempted [U/s 4(1)(h)]	2,500,000	nil
(f) Gift to the brother in the event of marriage	800,000	
Less: Fully Exempted [U/s 4(1)(h)]	800,000	nil
(g) Gift to a friend with inadequate consideration:		
(i) Value of the property	900,000	
(ii) Consideration received	150,000	
Deemed gift		750,000
(h) Loan written-off as bad debt is not a gift (shown as charge against profit in profit and loss account)		
(i) Gift outside Bangladesh:		
(i) Donation of a flat to sister-in-law in Nepal	500,000	
(ii) Donation of furniture to son-in-law in UK	460,000	
Total value of gift outside Bangladesh	960,000	
Less: Fully Exempted [U/s 4(1)(a)]	960,000	nil
Total		750,000
Less: General Exemption [U/s 4(2)]		20,000
Taxable Gift		<u>730,000</u>

Computation of Gift Tax Liability: On first Tk. 500,000 @ 5% and on next Tk. 230,000 @ 10%. Therefore, total gift tax liability is Tk. 48,000.

Illustration 22 – 3:

A list of gifts is given later that is related to Mr. X for the assessment year 2017 – 2018. Compute the taxable gift and the gift tax thereon.

Cash donation to brother in law on the occasion of marriage Tk. 80,000; Gift of a flat to the only daughter on the occasion of marriage Tk. 2,500,000; Donation to a local charitable institution Tk. 100,000; Cash donation to his nephew in financial crises Tk. 20,000; Payment of insurance premium of his wife and himself Tk. 40,000; Donation to a political party Tk. 120,000; Donation to a local high school under a will Tk. 450,000; Donation to an institution established and registered for charitable purpose in Bangladesh Tk. 300,000.

During the year, total income of Mr. X amounted to Tk. 1,000,000; Donation to city corporation for the cause of fighting corruption Tk. 100,000; Donation to a body corporate established by law Tk. 90,000; Donation to a religious institution whose income is exempted from income tax due to the application of paragraph 2 of part A of the Sixth Schedule of ITO 1984 Tk. 60,000.

Solution 22 – 3:

Assessee: Mr. X

Computation of Taxable Gift for Income Year: 2016 – 2017; Assessment Year: 2017 – 2018

	Tk.	Tk.
(a) Cash donation on marriage of brother-in-law	80,000	
Less: Exempted to the extent of Tk. 20,000 [U/s 4(1)(d)]	20,000	60,000
(b) Gift of a flat to the daughter on the occasion of marriage	2,500,000	
Less: Fully Exempted [U/s 4(1)(h)]	2,500,000	nil

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(c) Donation to a local charitable institution		100,000
(d) Cash donation to nephew	20,000	
Less: Exempted to the extent of Tk. 20,000 [U/s 4(1)(d)]	20,000	nil
(e) Donation to a political party		120,000
(f) Donation to a local high school under a will	450,000	
Less: Fully Exempted [U/s 4(1)(f)]	450,000	nil
(g) Donation to a charitable institution	300,000	
Less: Exempted – lower of Tk. 200,000 (20% of Tk. 1,000,000) or Tk. 100,000 [U/s 4(1)(c)(iv)]	100,000	200,000
(h) Donation to City Corporation	100,000	
Less: Fully Exempted [U/s 4(1)(b)]	100,000	nil
(i) Donation to a body corporate established by law	90,000	
Gift Tax Act is not applicable here [U/s 20 (a)]	-	-
(j) Donation to a religious institution	60,000	
Gift Tax Act is not applicable here [U/s 20 (b)]	-	-
Total		480,000
Less: General Exemption [U/s 4(2)]		20,000
Taxable Gift		460,000

Computation of Gift Tax Liability:

On first Tk. 480,000 @ 5%.

Therefore,

total gift tax liability is Tk. 24,000.

KEY POINTS

1. Gift means any transfer of ownership of movable or immovable property by one person to another willingly and without any profit.
2. The value of gift is the price that the property would fetch if sold in the open market on the date on which the gift was made.
3. The Act is not applicable for gifts made by a body corporate established or constituted by or under any law.
4. Every person who has made any taxable gift is required to submit a return with the DCT before the 15th day of September of the corresponding assessment year.
5. The person submitting a return is liable to pay tax on or before the date of submission on the basis of the return.
6. If a person failed to submit return within due date or need corrections on the return already submitted, he may submit the return or do corrections at any time before the assessment.
7. If any person deliberately furnishes inaccurate information in a return or fails to furnish a return even after receiving a notice from the DCT, he may be imposed a penalty **not exceeding fifty percent of the gift tax** determined by him.
8. If an assessee failed to pay any amount of gift tax or penalty specified, he shall be deemed to be an assessee in default.
9. Any person aggrieved by the order of the Deputy Commissioner of Taxes or Tax Recovery Officer may prefer an appeal to the Appellate Joint Commissioner of Taxes.
10. Gift tax is progressive like income tax with 4 tiers having rates set at 5%, 10%, 15% and 20%.

Multiple choice questions:

1. The valuation of gifted insurance policy is made on the basis of -
 - (a) Intrinsic value
 - (b) Market value
 - (c) Amount of premium paid
 - (d) Surrender value
2. Gift tax return is submitted with -
 - (a) Deputy Commissioner of Taxes
 - (b) Tax Recovery Officer
 - (c) Inspecting Joint Commissioner of Taxes
 - (d) Appellate Authority
3. When the gift tax return is submitted?
 - (a) Before the 15th day of June
 - (b) Before the 15th day of September
 - (c) Before the 15th day of December
 - (d) Before the 15th day of March
4. Assume that the DCT determined the amount of gift tax payable by the assessee on the basis of the return submitted. What is the type of assessment
 - (a) Assessment after hearing
 - (b) Best judgment assessment
 - (c) Assessment on correct return basis
 - (d) Universal self-assessment
5. In case of assessment after hearing, why does the DCT serve notices?
 - (a) For physical presence
 - (b) For production of evidences
 - (c) Both
 - (d) None
6. What is the maximum amount of gift that is not charged under Gift Tax Act 1990?
 - (a) Tk. 20,000
 - (b) Tk. 30,000
 - (c) Tk. 50,000
 - (d) Tk. 25,000
7. Gift tax is a direct tax with - taxation system.
 - (a) Proportional
 - (b) Progressive
 - (c) Regressive
 - (d) Digressive
8. Which of the following gift is fully exempted from the charge of gift tax -
 - (a) To dependent relative in the occasion of marriage
 - (b) By way of payment of insurance policy
 - (c) Donation to a local private mosque
 - (d) Donation to Government or any local authority.
9. Any person aggrieved by the order of Taxes Recovery Officer may file an appeal with -
 - (a) The Deputy Commissioner of Taxes
 - (b) The Inspecting Joint Commissioner of Taxes
 - (c) The Taxes Appellate Tribunal
 - (d) None of the above

10. Gift tax may be charged at a maximum rate of -

- (a) 25%
- (b) 35%
- (c) 40%
- (d) 20%

Identify the following statements as True (T) or False (F):

1. Both movable and immovable property can be transferred.
2. Transfer of property outside Bangladesh is taxable.
3. Every person who has made any taxable gift is required to submit return.
4. The DCT may require physical presence and production of evidences in best judgment assessment.
5. Insurance policy is valued at intrinsic value if gifted.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 22 – 1:** Explain the term ‘chargeability’ from gift tax point of view.
- Question 22 – 2:** “Gift tax is chargeable at the rates specified in the schedule irrespective of the nature of gift” – do you agree? Explain.
- Question 22 – 3:** “There is no difference between gift tax and income tax in terms of appeal” – do you agree? Explain.
- Question 22 – 4:** Which gifts are exempted from the charge of gift tax? Explain in the light of Section 4 of the Gift Tax Act, 1990.
- Question 22 – 5:** What are the procedures of submission of return?
- Question 22 – 6:** What are the different valuation styles of gifts? Exemplify.
- Question 22 – 7:** What are the different types of assessment applicable for gift tax?
- Question 22 – 8:** Write short note on:
- (a) Gift
 - (b) Transfer
 - (c) Valuation of Gift
 - (d) Best Judgment Assessment

Problem 22 – 1:

Mr. Ratan has made the following gifts during income year 2016-17:

- (a) Cash gift of Tk. 250,000 on the occasion of marriage of one of his relative who is not dependent on him.
- (b) Donated a house in India owned by him to a charitable institution there. The market value of the house is Tk. 3,500,000.
- (c) Gifted a motor car to the daughter of his close friend in the event of his marriage ceremony. The
- (d) Payment of annual dues regarding the life insurance policies of his brothers Mr. Jatan and Mr. Kiron; Mrs. Faria (wife of Mr. Ratan) and of himself. The amount being Tk. 20,000; Tk. 20,000; Tk. 30,000 and Tk. 35,000 respectively. Two brothers Mr. Jatan and Mr. Kiron is not dependant on Mr. Ratan.

Required: Compute the taxable gift and the gift tax thereon.

Chapter – 22: Gift Tax

Problem 22 – 2:

Mr. Faridul Alam has reported the following gifts applicable to the income year 2016-17:

1. Gift within Bangladesh:

- a. Gift to dependant sister a piece of land valued at Tk. 600,000;
- b. Gift to his brother the share of firm valued at Tk. 1,200,000 in contemplation of death;
- c. Cash donation to the youngest son for starting his own business, Tk. 800,000;
- d. Donation to:
 - i. Prime Minister's Relief Fund Tk. 60,000;
 - ii. Dhaka Medical College and Hospital Tk. 150,000;
 - iii. Dhaka Ahsania Mission Tk. 120,000;
 - iv. Aga Khan Development Network Tk. 80,000;
- e. Donated a house in Dhanmondi to his wife valued at Tk. 2,500,000;
- f. Gift to the younger brother a motor car costing Tk. 800,000 on the occasion of marriage.
- g. Gift to a friend a house at Chittagong as a token of love. The market value of the house is Tk. 900,000;
- h. Loan given to a friend amounting to Tk. 120,000 become uncollectible and written off as bad debt.

2. Gift Outside Bangladesh:

- a. Donated an unfurnished flat to his sister-in-law in Japan worth Tk. 500,000.
- b. Donated his office furniture to his daughter-in-law from his UK business office in the event of withdrawal of investment from UK valued at Tk. 460,000.

Required: Compute the taxable gift and the gift tax thereon.

Problem 22 – 3:

A list of gifts is given below that is related to Mr. Y for the assessment year 2017-18:

	Amount of Gift
(a) Cash gift to sister in law on the occasion of marriage	Tk. 80,000
(b) Gift of a flat to the only daughter on the occasion of marriage	2,500,000
(c) Donation to a charitable institution	100,000
(d) Cash donation to his nephew for doing business	20,000
(e) Payment of insurance premium of his wife and himself	40,000
(f) Donation to a political party	120,000
(g) Donation to a local high school	450,000
(h) Donation to an institution established and registered for charitable purpose in Bangladesh. During the year, total income of Mr. X amounted to Tk. 1,000,000.	100,000
(i) Donation to city corporation	100,000
(j) Donation to a body corporate not established by law	90,000
(k) Donation to a religious institution whose income is exempted from income tax due to the application of paragraph 2 of part A of the Sixth Schedule of ITO 1984.	60,000

Required: Compute the taxable gift and the gift tax thereon.

Answers:

Multiple choice questions		True/False
1. d	6. a	1. T
2. a	7. b	2. F
3. b	8. d	3. T
4. c	9. b	4. F
5. c	10. d	5. F

Self review 22 – 1:

- a. In the case of transfer of property with inadequate consideration, the amount, by which the market values of the property exceed the value of consideration, would be the amount of gift. The following equation may be used at the time of computation of taxable gift in such situation:

Taxable Gift: Value of the Property Transferred – Consideration Received .

- b. No, both movable and immovable property can be transferred and considered at the time of computation of taxable gift under Gift Tax Act, 1990.

Self review 22 – 2:

(a) Tk. 20,000

- (b) (i) Market value
(ii) Surrender value
(iii) Intrinsic value

CHAPTER – 23

CUSTOMS AND OTHER TAXES

● LEARNING OBJECTIVES ●

After studying Chapter 23, you shall be able to understand:

- ✦ the concept Customs duty
 - ✦ Customs procedure
 - ✦ Customs authorities in Bangladesh
 - ✦ the concept of income from spouse or minor child
 - ✦ Prohibited goods
 - ✦ Goods dutiable
 - ✦ Travel tax rates and exemptions
 - ✦ Baggage rules
 - ✦ Narcotics duty
-

23.1 INTRODUCTION

Customs is an authority or agency in a country responsible for collecting and safeguarding customs duties and for controlling the flow of goods including animals, personal effects and hazardous items in and out of a country. Depending on local legislation and regulations, the import or export of some goods may be restricted or forbidden, and the customs agency enforces these rules. Customs Duty synonymous to tariff and involves a tax on commodities entering and leaving the country. Customs duty is sometimes called an 'external excise tax', which includes an export duty or an import duty. In Bangladesh the levy and chargeability of customs duty are governed by the Customs Act, 1969.

23.2 BANGLADESH CUSTOMS

The origin of customs duty dates back to the 'customary levies' of ancient times. In the early twentieth century, 'taxes on imports and exports' were the seventh major source of public revenue. The present customs system came into being in the nineteenth century. The entire law and machinery for collection was consolidated in 1878, when the Sea Customs Act was enacted on the pattern of the British customs law, giving legal authority for the levy and collection of customs duty. The administration was initially vested in the provincial government until 1924, when it was brought under the central control with the establishment of the Central Board of Revenue (CBR) under CBR Act of 1924. The Land Customs Act was also promulgated in 1924 to enable the central government to enforce control on the movement of goods and passengers by land routes and frontiers from the subcontinent to adjoining territories and *vice versa* or in transit from one country to the other via the subcontinent. The Customs Act 1969 was enacted to consolidate and amend the law relating to the levy and collection of customs duties and provide for allied matters. After the emergence of Bangladesh, the government abolished CBR and created National Board of Revenue (NBR) as the apex tax authority with power to take over customs administration. The Customs Act was made effective in Bangladesh by President's Order no. 48 of 1972 with effect from 01 January 1970.

Considering all the relevant issues the NBR/ Bangladesh Government has decided to enact a new Customs Act titled “Customs Act, 2014” and in this regard a draft of new customs act has been prepared with the support of the consultants of International Finance Corporation (IFC). This new draft is now hosted in the public domain for stakeholders and consultants’ opinion. It is expected that NBR will finalize the final version of Act within 2014.

23.3 OBJECTIVES OF CUSTOMS ACT AND PROCEDURE

In Bangladesh, The primary function of the customs authority is the administration of revenue under the Customs Act 1969 and the Value Added Tax Act 1991. The customs authority is responsible mainly for assessment and collection of customs duties, VAT, supplementary duty and other taxes and charges leviable on imported or exported goods. Its collateral function includes prevention of smuggling, implementation of the Imports and Exports (Control) Act 1950, and the enforcement of the Foreign Exchange Regulation Act 1947. In its auxiliary function, the customs authority also maintains the security measures under different statutes, namely the Arms Act 1878, the Explosives Act 1884, the Merchandise Marks Act 1889, the Livestock Importation Act 1898, the Narcotics Control Act 1990, etc.

The major objectives of customs tariff policy are the protection of domestic industries, improvement of the balance of payments position, discouragement of importing demerit goods having negative externality, promotion of exports and simplification of procedure of importing inputs and capital goods for exporters. Tariff policy also has an objective of ensuring that the inputs of domestic products are not subject to tariffs higher than those of competing finished imports. Duties and taxes collected on international trade now comprise the one of the largest shares of tax revenue in Bangladesh. More than 70% of total taxes come from indirect taxes, about 17.2% of total tax which is collected at customs-station in form of import duty. In Bangladesh, the export is almost zero-rated, so customs duty is not charged on export commodity. However, due to tariff reduction after the signing of the World Trade Organisation (WTO) Agreement, the share of customs duty in the tax structure has been falling in recent years. The provisions of the customs act also help the country to protect the interest of the local industries.

23.4 CUSTOMS PROCEDURE

The Customs Act is related to import and export of “goods”. The goods are brought into or taken out of Bangladesh under the provision of the Customs Act. The “conveyance” entering Bangladesh from any place outside Bangladesh with imported goods must land at a “customs-area” which is usually a “customs-station” and which includes other area where imported goods or goods for export are ordinarily kept by the customs authorities. The “person-in-charge” of the conveyance is liable to comply this provision u/s 42. The customs-station may be a “customs-port”, “customs-airport” or any “land customs-station”. For control purposes, no vessel whether laden or in ballast, shall depart from any customs-port without a port clearance granted by the appropriate customs officer u/s 51 and no conveyance other than a vessel shall depart from a land customs-station or customs-airport without a written permission granted by the appropriate customs officer u/s 52. Besides u/s 64, goods are usually not to be loaded or unloaded or waterborne except in the presence of an “appropriate officer”. And usually goods are also not be loaded or unloaded or passed on certain days or at certain times u/s 65 and they are not be loaded or unloaded except at approved places u/s 66, but u/s 67, the National Board of Revenue (NBR) may exempt from the provisions of section 64 and 66. For imposing customs duty, the customs authorities assess the duty u/s 80 and 81.

23.5 SCOPE OF BANGLADESH CUSTOMS LAW

In order to determine the customs duty and complete the customs procedure in Bangladesh, certain provisions, rules and regulations are to be followed. They are as follows:

1. **The Customs Act, 1969:** The Customs Act, 1969 came into force in Bangladesh by President's Order no. 48 of 1972 with effect from 01 January 1970. It has twenty chapters, 223 sections, numerous subsections containing provisions regarding customs duty determination, penalty, appeal etc.
2. **Relevant Import / Export Policy:** Bangladesh Import Policy [2009-2012] and Bangladesh Export Policy [2009-2012].
3. **Finance Act:** It contains the changes introduced in the Customs laws in Bangladesh during the annual budget.
4. **SROs:** various SROs are issued time to time by the NBR to enhance the customs procedure as and when necessary.
5. **Allied Acts and Rules:** Such as, the Arms Act, 1878; General Clauses Act, 1897, Explosive Substances Act, 1908; Light House Act, 1927; Provisional Collection of Taxes Act, 1931; Agricultural Produce Cess Act, 1940; Excise and Salt Act, 1944; Foreign Exchange Regulation Act, 1947; Imports and Export (Control) Act, 1950; Criminal Law Amendment Act, 1958; National Board of Revenue Order, 1972; Travel Tax Act, 2003; Money laundering Act, 2009 etc..
6. **Judicial Decisions:** Relevant Judicial Decisions given by the Supreme Court settling Customs Cases.

23.6 STATUTORY DEFINITIONS OF IMPORTANT TERMS AS PER SECTION 2 OF THE CUSTOMS ACT, 1969

1. **Agent:** “agent” means any person, including a shipping agent, clearing and forwarding agent, cargo agent, and freight forwarding agent, licensed under section 207, or any person permitted to transact any business u/s - 208. [U/s 2(a)]
2. **Appellate Tribunal:** “Appellate Tribunal” means the Customs, Excise and Value Added Tax (VAT) Appellate Tribunal constituted under section 196. [U/s 2(aa)]
3. **Appropriate Officer:** “Appropriate Officer”, in relation to any functions to be performed under this Act, means the officer of customs to whom such functions have been assigned by or under this Act. [U/s 2(b)]
4. **Bangladesh customs-waters:** “Bangladesh customs-waters” means the waters extending into the sea to a distance of twelve nautical miles measured from the appropriate base line on the coast of Bangladesh. [U/s 2(bb)]
5. **Bill of Entry:** “Bill of entry” means a bill of entry delivered under section 79, and includes an electronically transmitted bill of entry in such cases and in such manner containing such particulars as the Board may specify. [U/s 2(c)]
6. **Bill of Export:** “Bill of export” means a bill of export delivered under section 131, and includes an electronically transmitted bill of export in such cases and in such manner containing such particulars as the Board may specify. [U/s 2(d)]
7. **Board:** “Board” means the National Board of Revenue constituted under the National Board of Revenue Order, 1972 (P.O. No. 76 of 1972). [U/s 2(e)]
8. **Coastal Goods:** “Coastal goods” means goods transported in a vessel from one port in Bangladesh to another, but does not include imported goods on which customs duty has not been paid. [U/s 2(f)]

9. **Container:** "Container" means a receptacle of permanent nature, having an internal volume of one meter or more, full or partially enclosed to constitute a compartment for containing goods and specially designed to facilitate carriage of goods by one or more modes of transport, without intermediate reloading, and ready handling, particularly when transferred from one mode of transport to another and strong enough for repeated use. [U/s 2(ff)]
10. **Controlling Authority:** "Controlling authority", in relation to any customs-airport, port, customs-inland container depot or customs-station, means the owner or legal occupier thereof or any person having legal control thereof. [U/s 2(fff)]
11. **Conveyance:** "Conveyance" means any means of transport used for carrying goods or passengers such as a vessel, aircraft, vehicle or animal. [U/s 2(g)]
12. **Customs-airport:** "Customs-airport" means any airport declared under section 9 to be a customs-airport. [U/s 2(h)]
13. **Customs-area:** "Customs-area" means the limits of the customs-station specified under section 10 and includes any area in which imported goods or goods for export are ordinarily kept before clearance by the customs authorities. [U/s 2(i)]
14. **Customs Computer System:** "Customs computer" system means the customs computerised entry processing system established by the Board for the purposes of this Act. [U/s 2(ii)]
15. **Customs-inland Container Depot:** "Customs-inland container depot" means any place declared under section 9 to be a customs-inland container depot. [U/s 2(iii)]
16. **Customs-inland water container terminal:** "Customs-inland water container terminal" means any place declared u/s9 as a customs-inland water container terminal [U/s 2(iiii)]
17. **Customs-port:** "Customs-port" means any place declared under section 9 to be a port for the shipment and landing of goods. [U/s 2(j)]
18. **Customs-station:** "Customs-station" means any customs-port, customs-airport, land customs stations, customs-inland water container terminal or such other place as may be declared, from time to time, under section 9. [U/s 2(k)]
19. **Export Manifest:** "Export manifest" means an export manifest delivered u/s - 53, and includes an electronically transmitted export manifest in such cases and in such manner containing such particulars as the board may specify. [U/s 2(kk)]
20. **Goods:** "Goods" means all movable goods and includes-
 - (i) Conveyances
 - (ii) Stores and materials
 - (iii) Baggage
 - (iv) Currency and negotiable instruments
 - (v) Electronic data. [U/s 2(l)]
21. **Import Manifest:** "Import manifest" means an import manifest delivered u/s - 43 & 44, and includes an electronically transmitted import manifest in such cases and in such manner containing such particulars as the Board may specify. [U/s 2(ll)]
22. **Land customs-station:** "Land customs-station" means any place including an inland river port declared under section 9 to be a land customs-station. [U/s 2(m)]
23. **Master:** "Master", when used in relation to any vessel, means any person, except a pilot or harbour master, having command or charge of such vessel. [U/s 2(n)]
24. **Officer of Customs:** "Officer of customs" means an officer appointed u/s
25. **Person:** "Person" includes a company, partnership, association, firm or a body of persons. [U/s 2(pp)]

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26. **Person-in-charge:** "Person-in-charge" means -
- (i) in relation to a vessel, the master of the vessel;
 - (ii) in relation to an aircraft, the commander or pilot in-charge of the aircraft;
 - (iii) in relation to a railway train, the conductor, guard or other person having the chief direction of the train;
 - (iv) in relation to any other conveyance, the driver or any other person having control of the conveyance. [U/s 2(q)]
27. **Registered User:** "Registered user", in relation to a Customs computer system, means a user of that system and registered for the purposes of this Act. [U/s 2(qqq)]
28. **Pre-shipment Inspection Agency:** "Pre-shipment inspection agency" means any person appointed under section 25A as a pre-shipment inspection agency and includes a representative of that person. [U/s 2(qq)]
29. **Prescribed:** "Prescribed" means prescribed by rules or order, as the case may be. [U/s 2(qqa)]
30. **Rules:** "Rules" means the rules made under this Act. [U/s 2(r)]
31. **Smuggle:** "Smuggle" means to bring into or take out of Bangladesh in breach of any prohibition or restriction for the time being in force; or evading payment of customs-duties or taxes leviable thereon –
- (a) narcotics, narcotic drugs or psychotropic substance; or
 - (b) gold bullion, silver bullion, platinum, palladium, radium, precious stones, currency, manufactures of gold or silver or platinum or palladium or precious stones, or any other goods notified by the Government in the official Gazette, in each case exceeding Taka ten lakhs in value; or
 - (c) any goods concealed in any manner in any place on board any ship, vessel or aircraft or in any other vehicle or in any baggage or cargo or on person; or
 - (d) any other goods by any route other than a route declared under section 9 or 10 from any place other than a customs-station; and includes an attempt, abatement or connivance of so bringing in or taking out of such goods; and all cognate words and expressions shall be construed accordingly. [U/s 2(r)]
32. **Special Bonded Warehouse:** "Special bonded warehouse" means a private warehouse licensed under section 13 and which is a hundred percent export oriented industry to be determined as such by the Board for the purpose of exemption from the provision of sub-section (2) of section 91. [U/s 2(t)]
33. **Warehouse:** "Warehouse" means a place appointed under section 12 or a place licensed under section 13. [U/s 2(tt)]
34. **Warehousing Station:** "Warehousing station" means a place declared as a warehousing station under section 11. [U/s 2(u)]
35. **Wharf:** "Wharf" means any place in customs-port approved under clause (b) of section 10 for the loading and unloading of goods or any class of goods. [U/s 2(v)]

23.7 CUSTOMS AUTHORITIES:

Customs authority is the empowered body through the act that has the sole authority to impose different sections under this act. NBR as per Chapter II (Section 3 to 8) of the Customs Act, 1969 deals with the appointments of the officers of customs and their powers. Apart from this, section 196 of the act talks about the appellate tribunal which also forms a part of authorities. Customs authorities with the organogram are presented in figure 1 followed by a discussion thereof.

23.7.1 Powers and duties of officers of Customs (U/S - 4):

An officer of customs appointed under section 3 shall exercise –

- a. Such powers and discharge such duties as are conferred or imposed on him
- b. All power/discharge all duties conferred/imposed upon any officer subordinate to him.

Provided that, the Board may impose such limitations or conditions on the exercise of such powers and discharge of such duties as it thinks fit.

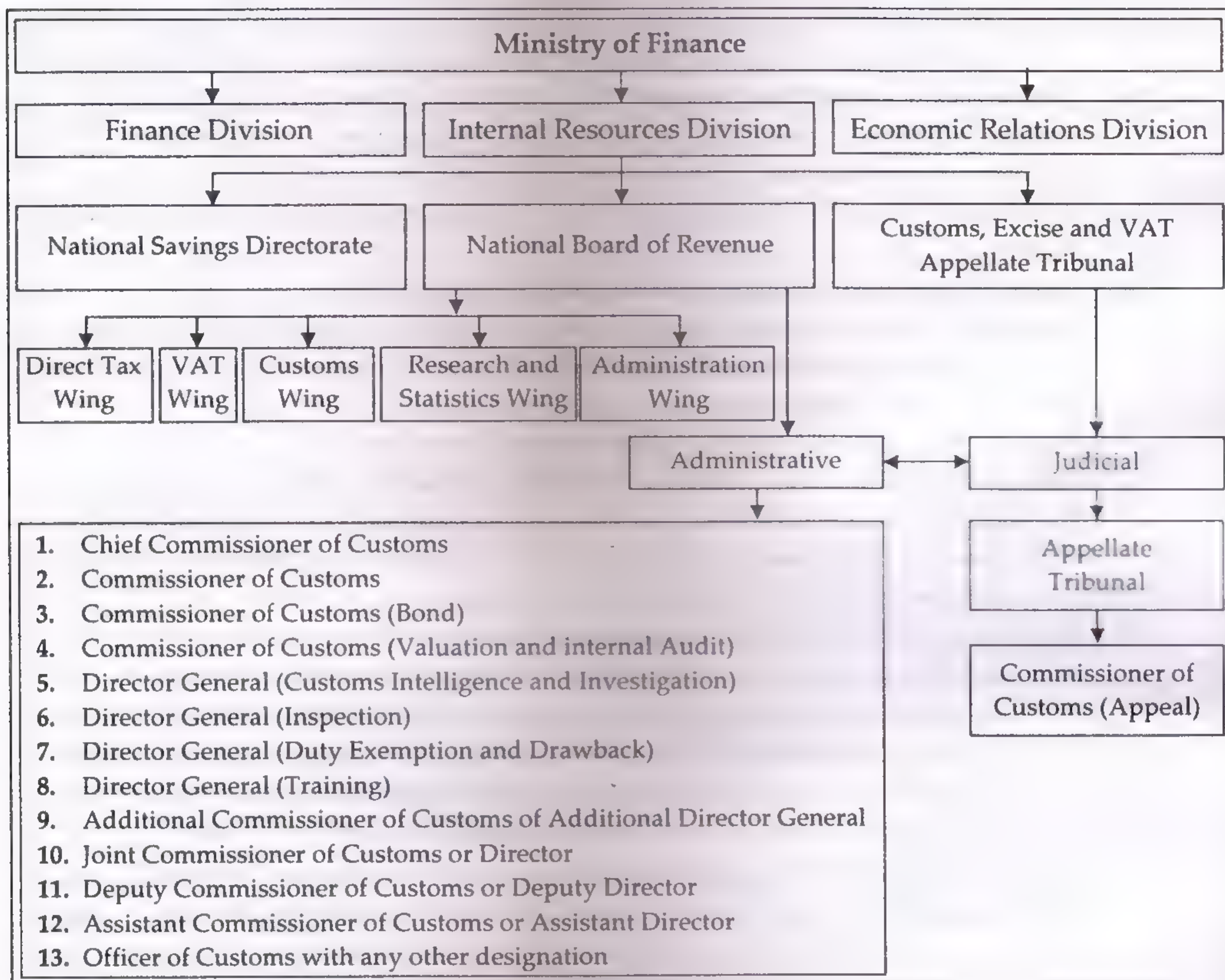


Figure – 1: Customs Authority Organogram

23.7.2 Delegation of powers (U/S - 5):

The Board may, by notification in the official Gazette, and subject to such limitations or conditions, if any, as may be specified therein, delegate the power by name or designation as given in the following table.

Empowered	With the Power of
(a) Additional Commissioner of Customs	⇒ Commissioner of Customs ⇒ Commissioner of Customs (bond) or ⇒ Commissioner of Customs (Valuation and Internal Audit)
(b) Joint Commissioner of Customs	⇒ Commissioner of Customs ⇒ Commissioner of Customs (bond) or ⇒ Commissioner of Customs (Valuation and Internal Audit) ⇒ Additional Commissioner of Customs

-
- | | |
|---------------------------------------|--------------------------------------|
| (c) Deputy Commissioner of Customs | ⇒ Additional Commissioner of Customs |
| | ⇒ Joint Commissioner of Customs |
| (d) Assistant Commissioner of Customs | ⇒ Deputy Commissioner of Customs |
| (e) any other officer of Customs | ⇒ Assistant Commissioner of Customs |
-

23.7.3 Assistance to the officers of Customs (U/S - 7)

All officers and staffs of government and semi-government organizations, law enforcement agencies, security forces, autonomous bodies, statutory bodies, financial institutions, educational institutions, private organizations, local government and non-government organizations shall assist the officers of customs in the discharge of their functions under this Act.

23.8 PROHIBITED GOODS (U/S – 15)

Some of the goods are prohibited to bring into Bangladesh whether by air or land or sea as per section 15 of the Customs Act, 1969. These are –

- (a) counterfeit coin;
- (b) forged or counterfeit currency notes and any other counterfeit product;
- (c) any obscene book, pamphlet, paper, drawing, painting, representation, figure, photograph, film or article, video or audio recording, CDs or recording on any other media;
- (d) goods having applied thereto a counterfeit trade mark within the meaning of the Penal Code (Act XLV of 1860), or a false trade description within the meaning of the Trademark Act, 2009 (Act No. XIX of 2009);
- (e) goods made or produced outside Bangladesh and having applied thereto any name or trade mark, being or purporting to be the name or trade mark of any manufacturer, dealer or trader in Bangladesh unless-
 - (i) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place outside Bangladesh; and
 - (ii) the country in which that place is situated is in that indication shown in letters as large and conspicuous as any letter in the name or trade mark, and in the same language and character as the name or trade mark;
- (f) piece-goods manufactured outside Bangladesh, unless the real length thereof in standard meters or other measurement for the time being applying in Bangladesh has been conspicuously stamped on each piece in Arabic numerals;
- (g) goods made or produced outside Bangladesh and intended for sale, and having applied thereto, a design in which copy-right exists under the Patents and Designs Act, 1911 (Act No. II) and in respect of the class to which the goods belong or any fraudulent or obvious imitation of such design except when the application of such design has been made with the licence or written consent of the registered proprietor of the design; and
- (h) goods or items produced outside Bangladesh involving infringement of the Copyright Act 2000 (Act No. XXVIII of 2000) or infringement of layout design of integrated circuit that are intended for sale or use for commercial purposes within the territory of Bangladesh.

The government may bring new goods in the prohibited goods list and also release some other goods from the list with specific description through official gazette notification. Where any goods are imported into or attempted to be exported out of Bangladesh in violation of the provisions as already mentioned, such goods shall be liable to be detained and confiscated and shall be disposed of in such a manner as may be prescribed.

23.9 LEVY OF CUSTOMS DUTIES:

Several types of duties are imposed on goods at the time of import or export as per various provisions (Basically Chapter V) of the CA, 1969. The relevant discussions are as follows:

23.9.1 Goods Dutiable:

Section – 18: Except as hereinafter provided, customs-duties shall be levied at such rates as are prescribed in the First Schedule or under any other in force law –

- (a) goods imported into, or exported from, Bangladesh;
- (b) goods brought from any foreign country to any customs-station, and without payment of duty there, transhipped or transported for, or thence carried to, and imported at, any other customs station; and
- (c) goods brought in bond from one customs station to another

Provided that no customs-duty under this Act or other tax leviable by a Customs officer under any other law for the time being in force shall be levied or collected in respect thereof, if

- (a) in value of the goods in any one consignment do not exceed **one thousand Taka**; and
- (b) the total amount of such duty and tax does not exceed **Taka one thousand**.

Section – 22: If goods produced in and exported from Bangladesh are subsequently imported into Bangladesh, such goods shall be liable to customs-duty, where

- (a) at the time of exportation of such goods, drawback of any Customs Duty or Excise Duty was allowed; and
- (b) such goods were exported in bond, without payment of Customs Duty on raw materials at import stage or Excise Duty or any other tax/duty at production stage.

23.9.2 Various Types of Duties under the Customs Act, 1969:

1. **General Customs Duty u/s 18(1):** This is the duty imposed on the goods durable u/s 18(1) which are prescribed in the First Schedule i.e (i) goods imported into or exported from Bangladesh, (ii) goods brought from a foreign country to any customs-station, and without payment of customs duty there, transhipped or thence carried to and imported at, any other customs-station; and (iii) goods brought in bond from one customs-station to another.
2. **Regulatory Duty u/s 18(2):** This is the duty which may be imposed by the Government through notification in the official gazette on all or any of the goods specified in the First Schedule in addition to the General Customs Duty imposed under u/s 18(1) at a rate not exceeding 50% of the rate of General Customs Duty, or at a rate not exceeding 100% of the value of such goods as determined u/s 25 (i.e the value-base for imposing the General Customs Duty).
3. **Countervailing Duty u/s 18A:** Where any country or territory pays, bestows, directly or indirectly, any subsidy upon the manufacture or production therein or the exportation therefrom of any goods including any subsidy on transportation of such goods, then, upon the importation of any such goods into Bangladesh, whether the

same is imported directly from the country of manufacture, production or otherwise, and whether it is imported in the same condition as when exported from the country of manufacture, production or otherwise, the Government may, by notification in the official gazette, impose a countervailing duty not exceeding such subsidy.

4. **Anti-dumping Duty u/s 18B:** Where any goods are exported from any country or territory to Bangladesh at less than the normal value, then, upon the importation of such goods into Bangladesh, the Government may, by notification in the official gazette, impose an anti-dumping duty not exceeding the 'margin of dumping' (the difference between the export price and the normal value) in relation to such goods.
5. **Safeguard Duty u/s 18E:** This is the duty which may be imposed by Government when it is satisfied that any article is being imported into Bangladesh in such increased quantities and under such conditions that such importation may cause or threaten to cause serious injury to domestic industry.

23. 10 EXEMPTIONS FROM CUSTOMS DUTY:

Considering the improvement of economic development and social welfare of Bangladesh, the government has allowed the import or export of some relevant goods fully or partly exempted from customs duty. Section 19, 20, 21 and 24 explained the provisions regarding the exemption:

General Exemption [U/S – 19]: If the Government is satisfied, after consultation with the National Board of Revenue (NBR), that it is necessary in the public interest to do so, it may, by notification in the official gazette, exempt any goods imported into, or exported from Bangladesh or into or from any port or station or area therein, from the whole or any part of the Customs Duty chargeable thereon. Provided that if, in a financial year, exemption under this sub-section is given in respect of any goods, the rate of duty cannot be changed more than once in that year so as to increase that rate.

Exemption in Special Circumstances [U/S – 20]: If the Government is satisfied that it is necessary in the public interest to do so, it may, under circumstances of exceptional nature, by a special order in each case recording such circumstances, exempt any goods from payment of the whole or any part of the Customs Duty chargeable thereon.

Delivery of goods without payment of customs duty and repayment of customs duty paid on import [U/S – 21]: The National Board of Revenue (NBR) or any other authority authorized by the NBR in the behalf may, by special order, authorize –

- (a) the delivery without payment of the Customs Duty chargeable thereon of goods which are imported only temporarily with a view to subsequent exportation;
- (b) the delivery without payment of the whole or in part of the Customs Duty chargeable thereon of prescribed class of goods imported and intended to be used in the production, manufacture, processing, repair or refining to Bangladesh of another prescribed class of goods;
- (c) the repayment of whole or in part of the Customs Duty paid on the importation of any prescribed class of goods which have been used in the production, manufacture, processing, repair or refining in Bangladesh of another prescribed class of goods, but in this case, no drawback can be claimed.

Export of provisions and stores exported free of customs duty [U/S – 24]: Goods produced or manufactured in Bangladesh and required as provisions and stores on any conveyance proceeding to any foreign port, airport or station may be exported free of

Customs Duty and VAT in such quantities which are determined by an appropriate Customs Officer on the basis of the size of the conveyance, the number of passengers and crew and the length of the voyage.

23.11 VALUATION OF GOODS FOR IMPOSITION OF DUTY / ASSESSMENT PURPOSE [U/S – 25]

The valuation of goods for imposition of duty is done on the basis of the various provisions of Section 25 of the Customs Act, 1969 and The Customs valuation (Fixing the price of Imported goods) Rules, 2000. A brief summary is as follows:

23.11.1 Value of imported goods u/s 25(1), 25(2) and 25(3):

The provisions for the computation of the value of goods for charging customs duty are:

1. Whenever customs-duty is leviable on any goods by reference to their value, the actual price, that is, the price actually paid or payable, or the nearest ascertainable equivalent of such price, at which such or like goods are ordinarily sold, or offered for sale, for delivery at the time and place of importation or exportation, as the case may be, in course of international trade under fully competitive conditions, where the seller and the buyer have no interest in the business of each other and the price is the sole consideration for sale or offer for sale, shall be the value [Section 25(1)].
2. Subject to the provisions of sub-section (1), the price referred to in that sub-section in respect of imported goods shall be determined in accordance with the rules made in this behalf i.e. as per the provisions of the Customs valuation (Fixing the price of Imported goods) Rules, 2000 [Section 25(2)].
3. Notwithstanding anything contained in this section, the Government may, by notification in the official Gazette, fix, for the purpose of levying customs duties, tariff values or minimum values for any goods imported or exported as chargeable with customs-duty ad valorem. Provided that any imported or exported goods, the declared value of which is higher than its tariff value fixed under this sub-section, shall be chargeable with customs duties on the basis of its declared value [u/s 25(3)].
4. For the purposes of sub-section (1)-
 - (a) the value of any goods shall include the freight, insurance, commission and all other costs, charges and expenses incidental to the sale and delivery at the place of importation or exportation; and
 - (b) the Board may, by notification in the official Gazette, fix the freight for the transportation of any goods or class of goods by aircraft that are delivered or could have been delivered at a Customs airport to the buyer.

23.11.2 Fixing the Price of Imported Goods:

The procedures of valuation of imported goods for levying customs duties as done in accordance to the following provisions of the Customs valuation (Fixing the price of Imported goods) Rules, 2000. The provisions regarding the valuation procedure are:

1. **Transaction value method [Rule – 3 and 4]:**
 - (a) Generally the value of the imported goods will be the transaction value.
 - (b) If transaction value cannot be determined, the valuation will be done as per Rule – 5, 6, 7, 8 or 9
 - (c) Provided that, subject to the application of the importer and approval of the Commissioner of Customs, provisions of the Rule 7 or 8 can be followed at a reverse sequence.

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- (d) In order to compute the transaction value the following costs would be added with the actual acquisition price paid or payable for import:
- ❖ Freight cost (not exceeding 20% of the FOB price, as the case may be)
 - ❖ Loading, unloading and handling charges for the goods, and
 - ❖ Insurance cost (not exceeding 20% of the FOB price)
2. **Transaction value of identical goods [Rule – 5]:** Where custom valuation is not possible as per Rule 4, the value of the imported goods will be the transaction value of identical goods during the same period.
 3. **Transaction value of similar goods [Rule – 6]:** Where custom valuation is not possible as per Rule 4 and 5, the value of the imported goods will be the transaction value of similar goods during the same period.
 4. **Deductive value [Rule – 7]:**
 - (a) Where custom valuation is not possible as per Rule 4, 5 and 6, the value of the imported goods will be made under deductive value method. Here, deductive value is calculated as: Highest unit price of imported similar or identical goods by person not related to the seller, less: related commission, profit and other general charges, freight inward, insurance and other related cost, customs duty, tax and other charges.
 - (b) If there are no identical or similar goods available at the time of valuation of imported goods, the deductive valuation will be based on the price of the similar or identical goods first imported within next 90 days;
 - (c) If the imported / identical / similar goods are not sold in the same form they were imported then the cost of value addition will be deducted from the highest unit price.
 5. **Computed value [Rule–8]:** Where custom valuation is not possible as per Rule 4, 5, 6 & 7, the imported goods will be valued adding the following costs:
 - (i) Cost of production of the imported goods or cost of inputs and related processing and other costs;
 - (ii) Average rate of profit of identical or similar goods in the exporting country;
 - (iii) Freight cost (not exceeding 20% of the FOB price, as the case may be);
 - (iv) Loading, unloading and handling charges for the goods, and
 - (v) Insurance cost (not exceeding 20% of the FOB price).
 6. **Other methods [Rule – 9(1)]:** Where custom valuation is not possible as per Rule 4, 5, 6, 7 and 8, the value of the imported goods will be made on the basis of any other methods in compatible with the Section 25(1) of the Customs Act, 1969.
 7. **Restriction of using certain prices in the valuation process [Rule – 9(2)]:** The following prices cannot be used as the base to compute the value of the imported goods:
 - (a) The selling price in Bangladesh, of the goods produced in Bangladesh;
 - (b) The highest one of the two alternative prices relevant for the valuation;
 - (c) The local price in the exporting country;
 - (d) Any other cost of production which is not the computed value per Rule 8;
 - (e) The export price to the countries other than Bangladesh;
 - (f) Minimum dutiable value.
 8. **Costs and Services [Rule – 10]:** The following costs will be added with the price paid or payable for the imported goods to determine the value:
 - (a) The buyer's proportion of the cost not included in the price:

- (i) Brokerage other than any buying commission;
- (ii) Cost of packing
- (iii) Cost of the container keeping in which the goods are provided for the valuation;
- (b) Cost incurred by the buyer for the goods imported for export, not included in the price:
 - (i) Cost of materials or resources added in the imported goods;
 - (ii) Cost of machineries, dice mold or other items used for the value addition through the production process for the imported goods;
 - (iii) Cost of ingredients added in the imported goods during the production process;
 - (iv) Cost of engineering, R & D, Art, design, planning and sketch;
- (c) Cost of royalty or license fee paid by the buyer;
- (d) The proportion of earnings earned by the seller from the sale, transfer or use of goods imported for further export;
- (e) Amount paid to the seller or any third party as a part of sale.

How to compute the price of imported goods for the purposes of sub-section (1):

Normal Price = CIF Value (cost, insurance and freight value)
 = Total costs up to the customs-port, airport, station or place in Bangladesh
 = Export price for the exporter in the foreign country

Add: Freight, insurance, brokerage and commission and all other costs, charges and expenses incidental to the sale and delivery of the goods at the customs-port, customs-airport or land customs-station in Bangladesh where the goods brought to unloading

23.12 DATE FOR DETERMINATION OF RATE OF DUTY, VALUE AND EXCHANGE RATE FOR IMPORTED GOODS [U/S – 30]

The date for determination of the value of imported goods and rate of import duty will be:

Situation	Date for determination of the value and rate of import duty
In the case of goods cleared for home consumption u/s 79	Date on which a bill of entry is prescribed u/s 79 (but if the bill of entry is presented in anticipation of arrival of a conveyance by which the goods are imported, the relevant date will be the date on which manifest of the conveyance is delivered after its arrival).
In the case of goods cleared for a warehouse for home consumption u/s 104	Date on which the goods are actually removed from the warehouse.
In the case of any other goods	Date of payment of duty.

23.13 DATE FOR DETERMINATION OF EXPORT DUTY [U/S – 31]

The rate of duty applicable to and the rate of exchange for computation of the value of any goods exported shall be the rate of duty and the rate of exchange prevailing on the date of the delivery of the bill of export. Provided that where the export of any goods is permitted without a bill of export or in anticipation of the delivery of such a bill, the relevant date will be the date on which loading of the goods on the outgoing conveyance commences.

23.14 ASSESSMENT

Section 80 and 81 of the Customs Act, 1969 enumerates the customs duty assessment procedure:

23.14.1 Assessment of duty [U/S – 80]:

1. On the delivery or electronic transmission of such bill, the goods or such part thereof as may be necessary may, without undue delay, be examined or tested in the presence of the owner or his agent, unless due to any exceptional circumstance such presence cannot be allowed and thereafter the goods shall be assessed to duty, if any, and the owner of such goods may then proceed to clear the same for home-consumption or warehouse them, subject to the provisions hereinafter contained.
2. Notwithstanding anything contained in sub-section (1), imported goods prior to examination or testing thereof may be permitted by the appropriate officer to be assessed to duty on the basis of the statements made in the bill relating thereto and the information furnished under the rules and the documents produced under section 26; but if it is found subsequently on examination or testing of the goods or otherwise that any statement in such bill or document or any information so furnished is not correct in respect of any matter relating to the assessment, the goods shall, without prejudice to any other action which may be taken under this Act, be re-assessed to duty.
3. Subject to the guidelines, if any, given by the Board from time to time, the Commissioner of Customs or any other Customs officer authorized by him in this behalf may clear any goods or class of goods imported by an importer or a class of importers without examination and testing of the goods, wholly or partly under sub-section (1).
4. Upon delivery or transmission of the bill of entry for the goods cleared or to be cleared under sub-section (3) the duty shall be deemed to have been duly assessed for the purposes of this section. Provided that where the appropriate officer has reason to believe that in case of any bill of entry re-assessment is necessary, he may, by recording reasons in writing re-assess the duty payable for the goods and take such other actions as he may deem fit under this Act.

23.14.2 Provisional assessment of duty [U/S – 81]:

1. Where it is not possible immediately to assess the customs-duty that may be payable on any imported goods entered for home-consumption or for warehousing or for clearance from a warehouse for home-consumption or on any goods entered for exportation, for the reason that the goods require chemical or other test or a further enquiry for purposes of assessment, or that all the documents or complete documents or full information pertaining to those goods have not been furnished, an officer not below the rank of Assistant Commissioner of Customs may order that the duty payable on such goods be assessed provisionally.
2. Where any goods are allowed to be cleared or delivered on the basis of such provisional assessment, the amount of duty actually payable on those goods shall, within a period of one hundred and twenty working days from the date of the provisional assessment, where there is a case pending at any court, tribunal or appellate authority, from the date of receipt of the final disposal order of that case, be finally assessed and on completion of such assessment the appropriate officer shall order that the amount already or guaranteed be adjusted against the amount payable on the basis of final assessment, and the difference between them shall be paid

forthwith to or by the importer or exporter as the case may be. Under exceptional circumstances the Board may extend the period of final assessment specified under this sub-section.

23.14.3 Amendment of Assessment [U/S - 83A]:

1. An officer of Customs not below the rank of an Assistant Commissioner of Customs may from time to time make or cause to be made such amendments to an assessment of duty or to the value taken for the purpose of assessment of duty as he thinks necessary in order to ensure the correctness of the assessment even though the goods to which the value or the duty relates have already passed out of Customs control or the duty originally assessed has been paid.
2. If the amendment has the effect of imposing a fresh liability or enhancing an existing liability, a demand notice of thirty days in writing shall be given by the officer of Customs to the person liable for the duty.

23.14.4 Limitation of Time for amendment assessments [U/S – 83B]:

- a. Where an assessment of duty has been made under this Act, the officer of Customs is not entitled to increase the amount of the assessment after the expiration of three years from the date on which the original assessment was made.
- b. Notwithstanding sub-section (1) of this section, in any case where the entry or any declaration made in relation to the goods was fraudulent or willfully misleading; the officer of Customs may amend the assessment at any time so as to increase the amount of the assessment.

23.15 PREVENTION OF SMUGGLING, POWERS OF SEARCH, SEIZURE ETC.

23.15.1 Power to Search [Section 158, 159 and 160]:

An appropriate officer of Customs may search any person if he has reason to believe that the person is carrying goods liable to confiscation. The person who has landed from or is on board or is about to board a vessel within the Bangladesh customs-waters, or if he has alighted from or is about to get into or is in any other conveyance arriving in or proceeding from Bangladesh, or if he is entering or about to leave Bangladesh, or if he is within the limits of any customs-area, may be searched in this regard [U/S – 158]. The Searching officer of Customs shall inform the person about his right to be taken to a gazetted officer of Customs or Magistrate. If it is found that there is no reasonable ground for search, the person would be discharged from any search or else the search would be made in the presence of two or more persons and witness. A female can be searched by female only [U/S-159]. If the searching officer has reason to believe that any person has any goods liable to confiscation secreted inside his body, he may detain such person and produce him to a qualified radiologist for X-Raying his body [U/S – 160]. In all the above cases, a seizure list would be prepared by the concerned Customs Authority for future reference.

23.15.2 Power to arrest [U/S – 60]:

Any authorized Customs officer or any person duly empowered for the prevention of smuggling who has reason to believe that any person has committed an offence under this Act may arrest such person.

23.15.3 Power to Stop and Search Conveyance [U/S – 164]:

Where the appropriate officer has reason to believe that within the territories of Bangladesh (including territorial waters) any conveyance has been, is being, or is about to

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be, used in the smuggling of any goods or in the carriage of any smuggled goods, he may at any time stop any such conveyance or, in the case of an aircraft, compel it to land and can use any lawful means for stopping it or preventing it escape including, if all other means fail, firing upon it.

23.15.4 Seizure of things liable to Confiscation [U/S – 168]:

The appropriate officer may seize any goods liable to confiscation under this Act, and where it is not practicable to seize any such goods, he may serve on the owner of the goods or any person holding them in his possession or charge an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer. The may also seize any documents or things which in his opinion will be useful as evidence in any proceeding under this Act.

23.16 OFFENCES AND PENALTIES (U/S – 156]

Whoever commits any offence shall, in addition to and not in derogation of any punishment to which he may be liable under any other law, be liable to the punishment mentioned against that offence as per section 156. Under this section various penalty measures of 98 types of offences are enumerated. The details of this section may be found in the NBR website <http://www.nbr.gov.bd/contents/act/7.pdf>.

23.17 ALTERNATIVE DISPUTE RESOLUTION

To ease the customs related dispute settlement, the provisions of Alternative Dispute Resolution has been introduced through the inclusion of a new chapter in the Customs Act, 1969 (Chapter XVIII A) by the Finance Act, 2011. Notwithstanding anything contained in Customs Act any dispute of an importer or exporter lying with any customs authority or customs and VAT appellate authority may be resolved through Alternative Dispute Resolution (hereinafter referred to as ADR) in the manner described in the following sections of this Chapter and rules made thereunder [Section 192 A]. The basic features under this chapter are discussed below in brief:

23.17.1 Commencement of ADR Process [Section 192 B]: The ADR as mentioned in this Chapter shall come into force on such date and in such class or classes of assesses as the Board may determine by notification in the official Gazette.

23.17.2 Definition and Scope of Disputes for ADR [Section 192 C]: For the purposes of this chapter, "dispute" means-

(a) any case or proceeding-

- i. of levy, assessment, collection or refund of duty and taxes or, for imposition of fine or penalty in relation to the determination of customs valuation under section 25 of any imported consignment;
- ii. pending before any customs authority or any appellate authority constituted under this Act, or the Supreme Court of Bangladesh; and
- iii. penalty related pending disputes including those of customs classification under mandatory pre-shipment inspection system.

(b) any case or proceeding pending before customs or customs appellate authority or the Supreme Court of Bangladesh relating to fine or penalty imposed by customs authorities in respect of any matter of clean report of findings (CRF) or customs valuation, arising out of either the pre-shipment inspection system or otherwise.

Notwithstanding anything contained in above section, the following disputes shall not be dealt with ADR, namely:

- (i) fraud or criminal cases;
- (ii) disputes involving seizure and confiscation of prohibited, restricted or smuggled goods;
- (iii) disputes involving allegations of money laundering;
- (iv) disputes involving customs classification of imported goods except disputes related to customs classification and penalty thereof, pending under mandatory pre-shipment inspection system; and
- (v) disputes on alleged evasion of duties and taxes through the resort to misdeclaration of H.S.Code, name and quantity of goods, fraud of documents, violation of import and export policy or violations of customs bonded warehouse related licensing and/or bond related conditions.

23.17.3 Appointment of Facilitator and duties of the parties concerned [Section 192 D]: For the purposes of resolving a dispute in an alternative way, the Board may select or appoint Facilitator and determine his duties and responsibilities by rules.

23.17.4 Application for ADR [Section 192 E]: For ADR of a dispute, the concerned importer / exporter may apply to the following authorities:

- (a) for a dispute which was created and not already been adjudicated or settled before the commencement of the ADR process, the application is to be submitted in prescribed form and manner, to the concerned Commissioner of Customs or adjudicating officer or Appellate authorities, as the case may be;
- (b) for a dispute which arises after the commencement of the ADR process, the application is to be made before seeking or trying for settlement of the said dispute under sections 179, 193 or 196 as the case may be, of this Act, to the concerned Commissioner of Customs or adjudicating officer, as the case may be, in the prescribed manner, within ten working days from the date of issue of the concerned show cause notice or assessment order, or demand notice, as the case may be; and
- (c) for an application on a matter suitable for ADR which is pending before the Supreme Court of Bangladesh, the concerned petitioner, if he so desires, may apply to the concerned Commissioner of Customs for ADR, after obtaining permission from the said court, and upon granting of such permission by the court the matter shall remain stayed during the period of ADR process:

Provided that, if the court disposes any such writ petition with directions to any of the above authorities to settle the matter through ADR, then the authority shall settle the case accordingly, if not otherwise barred by law.

23.17.5 Processing and Disposal of Applications for ADR [Section 192F]: Applications received from the aggrieved importer or exporter for ADR within this chapter, is to be processed and disposed of, according to the rules.

23.17.6 Duration of Negotiation and Resolution [Section 192G]: When an application is submitted for ADR, all formalities including the negotiation and agreement or disagreement or resolution is to be completed in a period of maximum thirty working days from the date of submission of the application. If the application is submitted to the Commissioner Appeal or Customs and VAT Appellate Tribunal or any court, the period is sixty days.

23.17.7 Decision of the ADR [Section 192H]: The provisions are as follows:

1. A dispute may be resolved by an agreement either wholly or in part where both the parties of the dispute accept the points for determination of the facts or laws applicable in the dispute.
2. Where an agreement is reached, either wholly or in part, between the applicant and the Commissioner of Custom's Representative, the Facilitator shall record, in writing, the details of the agreement in the manner as may be prescribed and communicate the decision to the concerned parties and the Board within 7 working days of the conclusion of the 30 or 60 days period, as the case may be.
3. The recording of every such agreement shall describe the terms of the agreement including any tax payable or refundable and any other necessary and appropriate matter, and the manner in which any sums due under the agreement shall be paid and such other matters as the Facilitator may think fit to make the agreement effective.
4. The agreement shall be signed by the applicant-importer or exporter, Commissioner's Representative and the facilitator.
5. The agreement shall be void if it is subsequently found that it has been concluded by fraud or misrepresentation of facts.
6. Where no agreement, whether wholly or in part, is reached, the facilitator shall communicate about such unsuccessful dispute resolution in writing to the applicant, the concerned commissioner and the Board within prescribed period and manner, as the case may be.
7. Where the agreement is reached and communicated as provided herein, the usual process of recovery of dues, if any, payable to the Government or refund of money to the importer or exporter or any other necessary action shall proceed in accordance with the applicable provisions of the applicable laws.

23.17.8 Effects of Agreement or Resolution [Section 192I]: The provisions are as follows:

1. Notwithstanding anything contained in any provision Customs Act, where an agreement is reached for ADR, it shall be binding on both the parties and it cannot be challenged in any appellate forum or court either by the applicant or by the customs authorities.
2. Every agreement, passed under this chapter shall be conclusive as to the matters stated therein and no matter covered by such agreement shall, save as otherwise provided in this chapter, be reopened in any proceeding under this Act or any other law.
3. If the dues, payable as per agreement is not paid and if the same including any penalty or interest for default in making payment of such sum, is not paid within one year, such sum may be recovered as sums due to the government in accordance with the provisions under section 202 of this Act.

23.17.9 Limitation for Appeal where Agreement is not concluded [Section 192J]: The provisions are as follows:

1. Notwithstanding anything contained in any other provisions of this Act, where an agreement is not concluded wholly or in part, the aggrieved importer or exporter may, after completion of adjudication process, if pending, prefer an appeal to the respective appellate authorities on the unresolved issue.

2. Where a dispute under appeal, an application for ADR is made but agreement could not have been concluded within the period mentioned in section 192G or negotiation ended in disagreement, the ADR process shall automatically stand terminated and the original appeal shall be deemed to have been revived before the concerned appellate authority including any court from the day immediately after the date the ADR process stands terminated and provisions contained in respective sections of the respective law shall, so far as may be, apply accordingly.
3. In computing the period of limitations for filing appeal, the time elapsed between the filing of the application and the communication of the decision or order of the ADR by the facilitators to all the parties shall be excluded.

23.17.10 Bar on suit or prosecution [Section 192K]: No civil or criminal action shall lie against any person involved in the ADR process before any court, tribunal or authority for any action taken or agreement reached in good faith.

23.18 TRAVEL TAX

In Bangladesh, travel tax is levied as per Section 3 of the Travel Tax Act, 2003. The relevant provisions applicable to impose travel tax are as follows:

23.18.1 Rate of Travel Tax [U/S – 3] [SRO 159/Law/Travel/2014 dated June 26, 2014]:

1. Travel tax is collected from a passenger who travels from Bangladesh to any country by air, land or sea.
2. The Government may, by rules, prescribe the rate of Travel Tax.
3. Travel Tax is to be levied and collected from each passenger at rate mentioned below effective from July 01, 2014:-

Travel through Air:

- (a) Tk. 4,000, in case of travel to any country in North America, South America, Europe, Africa, Australia, New Zealand, China, Japan, Hongkong, North Korea, South Korea, Vietnam, Laos, Cambodia and Taiwan;
- (b) Tk. 1,200, in case of travel to any SAARC country by air;
- (c) Tk. 3,000, in case of travel to any country except countries mentioned in sub-clauses (a) and (b) by air;

Travel through Water:

- (a) Tk. 800, in case of travel to any country through sea/water; and

Travel through land:

- (a) Tk. 500, in case of travel to any country by sea;

4. Producer for collection of travel Tax shall be prescribed by regulations.
5. Tax collected in accordance with the procedure under sub-section (4) shall be deposited to the government Treasury within the prescribed time.
6. Where any person or organization, responsible for collection of Travel Tax fails to deposit the Travel Tax so collected to the Government Treasury within the prescribed time, an amount equal to the amount which he or it fails to deposit to the Government Treasury, and in addition an interest at the rate of two percent per month of such tax, shall be collected from such or organization.

23.18.2 Exemption from Travel tax [U/S – 4]:

The Government may, by notification in the official Gazette, exempt any person or class of persons from Travel Tax payable under this Act. Notwithstanding anything contained in

section 3, the following passengers be exempted from travel Tax payable under this Act, namely:- (a) Child; (b) Patient suffering from Cancer; (c) Blind person; (d) Invalid person with stretcher cases; (e) Airlines crew on duty; (f) Members of the diplomatic mission in Bangladesh holding diplomatic status and the members of their family; (g) Officials of the United Nations and the members of their family; (h) Any person traveling to Saudi Arabia for Hajj and Umrah; (i) Transit passengers without Bangladesh VISA who shall not stay in Bangladesh for more than seventy two hours; and

23.19 EXCISE DUTY

Excise Duty is a tax on goods produced inland. It is a tool of government revenue collection. The government can use it with the motive of 'income distribution' or for implementing the benefit principle of taxation i.e., collection of funds through excise on particular products (like Tobacco) and using the funds for assisting people affected by consumption of that product. Excise duty is also imposed to discourage the consumption of certain so-called 'undesirable' commodities (e.g., liquor and tobacco) or to control or ration the consumption of certain commodities in times of external scarcity (such as in wartime) or inflationary pressure.

Excise duty is imposed in Bangladesh under the Excise and Salt Act 1944 (Act I of 1944) enacted on 24 February 1944. This law was introduced to levy and collect excise duties on salt and on goods manufactured or produced in the sovereign territory of the country. Before introducing Value Added Tax (VAT) in July 1991, the excise constituted the second largest source of revenue for the government (about 22% of total revenue). But VAT had reduced the tax-coverage of excise duty to a minimum. Excise duty is collected by the Customs, Excise and VAT wing of the NBR. The services subject to excise duty are listed in the Part II of the First Schedule of the Excise and Salt Act 1944 and their list includes services rendered by Bank or Financial Institution and Airline.

23.19.1 Rates of Excise Duty:

The rates of excise duty applicable for the assessment year 2015-16 are as follows:

Service Code	Description of Services	Rate of Duty
E032.00	Services Rendered by Bank or Financial institutes:	
	(a) If the balance (Debit / Credit) does not exceed Tk. 20,000, at any time during a year.	Nil
	(b) If the balance (Debit / Credit) exceeds Tk. 20,000 but does not exceed Tk. 100,000	Tk. 150 per account per year
	(c) If the balance (Debit / Credit) exceeds Tk. 1 Lakh but does not exceed Tk. 10 lakh	Tk. 500 per account per year
	(d) If the balance (Debit / Credit) exceeds Tk. 10 lakh but does not exceed Tk. 1 crore	Tk. 1,500 per account per year
	(e) If the balance (Debit / Credit) exceeds Tk. 1 crore but does not exceed Tk. 5 crore	Tk. 7,500 per account per year
	(f) If the balance (Debit / Credit) exceeds Tk. 5 crore	Tk. 15,000 per account per year
E033.00	Services Rendered by Airline	
	(a) Services rendered by airline through issuing a domestic "Airline Ticket per Seat" for single journey, which may involve one or more	Tk. 500

stops over on its way to ultimate airport of destination

- | | |
|---|---|
| <p>(b) Services rendered by airline through issuing an international "Airline Ticket per Seat" for single journey, which may involve a connecting flight from a domestic airport.</p> | <p>(i) For SAARC countries Tk. 500
(ii) For other Asian countries Tk. 1,000
(iii) For Europe, USA and rest of the World Tk. 1,500</p> |
| <p>(c) Foreign national of Diplomatic class, showing his/her diplomatic passport at the Airline Ticket counter and check-in counter.</p> | <p>Nil</p> |

Ref: SRO No. – 129-AIN/2015/314-Excise dated June 04, 2015 and Finance Act - 2015.

Note: (1) The above mentioned excise duty will be exempted for bank accounts opened by farmer^s depositing Tk. 10; provided that the balance of the account does not exceed Tk. 100,000, at any time during the year under SRO No. – 401-AIN/2010/308-Excise dated 22.12.10 (2) The above mentioned excise duty will be exempted for gazetted wounded freedom fighters if they travel in both domestic and international route^s by Biman Bangladesh Airlines Limited under SRO No. – 130-AIN/2015/314-Excise dated June 04, 2015

23.20 BAGGAGE RULES

In Bangladesh, for non-tourist passengers the applicable baggage rules is named as the Non-tourist passenger (incoming) Baggage rules, 2016 (SRO No. 164/AIN/2016/26/Customs dated 02/06/2016). The relevant provisions Baggage Rules are:

1. Any item brought as Baggage, but not falling in the category of personal and household effects is subject to the payment to the custom duty; value added tax and supplementary duty.
2. If any passenger doesn't carry any dutiable goods, he can use green channel (if any) to enter.
3. All passengers coming from abroad must fill up Schedule 1 form to declare the nature of baggage.
4. Baggage of any Bangladeshi citizen died abroad will be exempted from any duties.
5. A passenger may import as baggage some items on payment or fixed amount as customs duty, value added tax and supplementary duty.
6. A passenger can import unaccompanied baggage once in a calendar year.

23.20.1 Duty Incentives for Passengers:

Duty incentives for passengers arriving by air or sea:

1. Any passenger (aged 12 years or above) arriving by air or sea carrying with him/her any handbag, cabin bag, or other means of baggage weighting not exceeding 65 kg shall be exempted from customs, value added and supplementary duty.
2. However, in addition to above mentioned baggage, weighting not exceeding 35 kg containing books, magazines, personal and household effects, study related materials and educational items can also be cleared duty-free.
3. Unaccompanied baggage fulfilling the above conditions can also be cleared duty free subject to its declaration in Schedule 1 Form. A photocopy of the Declaration Form must be submitted to the concerned Customs Officer in this regard.

4. Any passenger can import one piece item (in case of mobile phone – two) each mentioned in Schedule 3 and Schedule 2, paying the specific amount of tax and duty mentioned in the schedule.
5. Any foreign national can import up to 1 liter of spiritual beverage that is spirits, wines, beer without custom duty.
6. Any passenger, not importing any product listed in Schedule 2 and 3, can purchase those declaring it in Schedule 4 within 7 days of his/her arrival.
7. A passenger may import the machinery or equipments used by him for his profession which can be carried easily without custom duty.
8. A passenger may import gold ornaments upto 100 gram or silver ornaments upto 200 gram without custom duty (maximum 12 items of same design / category).
9. A passenger may import solid gold/ silver bar upto 234 gram subject to the payment of custom duty.

Duty incentives for passengers arriving by road:

Any passenger irrespective of his time of staying in abroad, can import maximum \$400 (four hundred) worth baggage without paying any customs duty.

Duty incentives for sick or disable passengers:

Medical equipments and wheel chair used for any sick / disable /old passenger arriving by air or sea or land can be imported without paying any customs duty.

Duty incentives for crews, sailors and others:

1. Any crew or official, working in any Bangladeshi Airlines or in any foreign airlines that operates in any Bangladeshi Airport, can import maximum \$300 (three hundred) worth baggage without paying any customs duty.
2. Any Bangladeshi sailor or official of ship coming from any foreign seaport can import maximum \$300 (three hundred) worth baggage without paying any customs duty. But if the sailor signs off than he can import maximum \$2,000 (two thousand) worth baggage on payment of relevant customs duty.
3. Any driver and steward (helper/assistant) of passenger buses coming from abroad can import their personal belongings (wearing apparel, bed & cooked food) and maximum \$50 (fifty) worth baggage without paying any customs duty

23.20.2 Taxable baggage Items (Schedule -2):

1. Import goods, other than personal and household items are taxable.
2. Any baggage imported in excess of duty free limit.
3. Imported items that are used for commercial purpose are taxable.
4. The following tax will be applicable in case of import baggage's even if they are used for household or personal purpose:

Sl.	Nature of Goods	Duty/tax amount (Tk.)
1	Plasma, LCD, TFT, LED and Similar nature Television:	
	(a) 22" – 29"	5,000
	(b) 30" – 36"	10,000
	(c) 37" – 42"	20,000
	(d) 43" – 46"	30,000
	(e) 47" – 52"	50,000
	(f) 53" and above	70,000

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2	Music Center accompanying with more than 4 but maximum 8 speakers, Home Theater (CD/VCD/DVD/LD/MD/Blue Ray Disc Set)	8,000
3	Refrigerator / Deep Freezer	5,000
4	Air Cooler / Air Conditioner:	
	(a) Window type	7,000
	(b) Split type upto 18,000 BTU	15,000
	(c) Split type above 18,000 BTU	20,000
5	Dish Antenna	7,000
6	Gold bar (Maximum 234 gram)	3,000 per 11.664 gram
7	Silver bar (Maximum 234 gram)	6 per 11.664 gram
8	HD Cam, DV Cam, BETA cam or any camera used for professional purpose	15,000
9	Air Gun/Air Rifle (Imported with the permission of Ministry of Commerce)	5,000
10	Jharbati (Chandelier/Candelabrum)	300 per point
11	Carpet upto 15 Sq. metre	150 per sq.m
12	Dish Washer/Washing Machine/ Cloth Dryer	3,000

23.20.3 Duty free Baggage Items (Schedule 3):

1. Cassette Player/Twin one;
2. Discman / Walkman (Audio);
3. Portable Audio CD Player;
4. Desktop/Laptop Computer (including one UPS);
5. Computer scanner;
6. Computer Printer;
7. Fax machine;
8. Video Camera (excluding HD/DV/BETA Cam or camera for professional use);
9. Still camera / Digital camera;
10. Ordinary/Pushbutton/Cordless Telephone Set;
11. Ordinary/Electric/Microwave Oven;
12. Rice Cooker/Pressure Cooker/ Gas Oven (with burner);
13. Toaster/Sandwich maker/Blender/Food processor/Juicer/Coffee maker
14. General and Electric typewriter
15. Household Sewing Machine (manual / electric);
16. Table/Pedestal/household Ceiling fan;
17. Sports wear/material (for using personal purpose);
18. 100 grams gold or 200 grams silver ornaments (Not more than 12 pcs of each item);
19. One Cartoon Cigarette (200 stick);
20. Upto 21" Plasma, LCD, TFT, LED and Similar nature Television and Upto 29" Black & White or Color CRT Television;
21. VCR/VCP;
22. Ordinary CD and Double Speaker Music Centre (CD/VCD/DVD/LD/MD Set);
23. Four Speaker Music Centre (CD/VCD/DVD/LD/MD/Blue Ray Disc Player);
24. Upto 19" LCD Computer Monitor (with/without TV output);
25. Two Mobile / Cellular Phone Set.

23.21 NARCOTICS DUTY

We had no adequate and enabling law in the eighties to handle the sordid condition created by drug abuse and the related issues. All that we had at that time were some colonial laws (the Opium Act, 1878, the Excise Act 1909, the Dangerous Drugs Act 1930, the Opium Smoking Act 1932 and the Prohibition Rules, 1950) inherited from the British and Pakistan period. These laws were intended and designed for earning government revenues through excise levying activities. These laws, however, proved to be inadequate to suit the needs of the time. The Government of the People's Republic of Bangladesh enacted the **Narcotics Control Act in 1990** repealing all the colonial laws with a view to encountering drug problem true to the aspiration of our society.

23.21.1 The Narcotics Control Act 1990:

The Narcotics Control Act, 1990 was passed in 1990 by repealing all previous laws for control of narcotics, treatment and rehabilitation of drug addicts. The government has enacted the Act of 1990 as amended in 2000, 2002 and 2004 in order to update the law.

Features of the Narcotics Control Act 1990:

The Narcotics Control Act, 1990 (as amended in 2000, 2002 and 2004) has got the following salient features reflecting the growing needs for effective encounter against drug smuggling on the one hand and corroborating on the other the international efforts to contain this problem.

1. The Narcotics Control Act, 1990 came into force on 2nd January, 1990.
2. It is a special law having predominance over other laws in respect of its ambit and jurisdiction on drugs and drug related issues.
3. Interception of illicit drug trafficking through law enforcement, control of narcotic drugs and psychotropic substances used in medical, industrial and scientific purposes coupled with treatment and rehabilitation of the drug addicts underlie the propriety of this law.
4. It provides legal coverage for establishment of the Department of Narcotics Control (DNC) as the Nodal Agency of the government to fulfill the objectives of the law in question. It also provides the legal basis for formation of the National Narcotics Control Board (NNCB) as the highest policy-making body of the government for formulating necessary policies and strategies to combat drug problem in the country.
5. This Act of 1990 empowers not only the Department of Narcotics Control but also the other agencies of the government like the Police, the BDR (the border security force), the Customs and the Coastguard for drug enforcement activities.
6. The law provides for mutual cooperation among the different law enforcement agencies as and when required for conduct of search, seizure and arrests.
7. The law introduces an effective licensing system for controlling import, export, manufacturing, processing, distribution, sale, transport, possession and use of licit narcotic drugs, psychotropic substances and precursor chemicals. The Narcotics Control Rules, 1999 is the legal instrument for carrying out the licensing provisions enshrined in the law.
8. This law prescribes deterrent punishment for various categories of drug offences as well as for breach of the conditions of the licenses issued under the law.
9. The law prescribes the highest penalty of death sentence for the offenders accused of possessing either heroin or cocaine or cocaine derivatives exceeding the quantity of 25 grams. Similarly the illegal possession of pethidine or morphine or possession of tetra-hydro-cannabinol exceeding the quantity of 10 grams renders the offender or

offenders concerned liable to death sentence or life-long imprisonment. Death sentence has also been prescribed for certain other drug offences of serious nature (Section 19 of the law).

10. The law takes the wisdom of the three major UN Conventions and the SAARC Convention on narcotic drugs and psychotropic substances particularly in regard to forfeiture of sale proceeds of illegal drug business, freezing of bank accounts and properties, sending of juvenile offenders to the correction centre in lieu of imprisonment, inclusion of the controlled delivery technique, compulsory maintenance of accounts of licit drugs by the license holders, incorporation of the 22 precursor chemicals and so on.
11. The law provides the legal basis for the Chemical Laboratory of the Department of Narcotics Control and its proper functioning in respect of forensic analysis of all seized drugs and suspicious substances. This lab, established in Dhaka, caters to the needs of all the agencies charged with the responsibilities of drug enforcement and thereby it plays an important role in quick disposal of drug cases under trial.
12. The amendment of 2000 to the law brings about the government first foray into the control of precursor chemicals from drug control point of view.
13. An amendment of 2002 has introduced the minimum time limit of 15 days for completion of investigation of drug cases filed under this law.
14. Another amendment in 2004 redefines alcohol by reducing the lowest limit of alcoholic strength from 5% to only 0.5%. Any liquid preparation containing more than 0.5% alcohol shall fall within the purview of the law. This amendment is intended for safeguarding our young generations from the clutches of the so called energy (alcoholic) drinks and their bad impacts.
15. The law has got 61 Sections in all. It has got two Schedules of which the first schedule lists the narcotic drugs and psychotropic substances including the 22 precursor chemicals. The second schedule on the other hand lays down the rates of excise duties to be imposed on the domestically produced liquor and alcoholic spirit.
16. The law is a unique combination of legal provisions comprising violation sections, penal sections, hybrid sections (prescribing violation and punishment together), modus operandi sections and administrative sections.
17. Adorned with the foregoing features, the Narcotics Control Act. 1990 (as amended in 2000, 2002 and 2004) stands to be adequate and enabling enough to meet the challenge of the time.

23.21.2 Narcotics [Section 2(j)]:

“Narcotics” means any narcotic drugs or psychotropic substances or any other substance mentioned in the First Schedule or declared as narcotics through government gazette notification.

23.21.3 Classification of Narcotics [Section 2(m) & Schedule 1]:

According to Section 2(m) of the NC Act, 1990, narcotics can be classified into:

1. A – Class Narcotics; 2. B – Class Narcotics; and 3. C - Class narcotics.

Class	Nature of Narcotics
A	1. Opium poppy or any glutinous substance coming out it.
	2. Any refined, unrefined or manufactured Opium or any articles produced with Opium.
	3. Any articles containing more than 0.2 percent of Morphine.

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A	<ol style="list-style-type: none"> 4. Opium derivatives – viz.. Morphine, Codeine, Heroine, Buprenorphine, Thebaine, Noscapine, Narcotine, Papavarine etc. and their alkaloids. 5. Any synthetic or artificially manufactured narcotics which is similar to Pethidine, Meperdine, Methadone, Dextromoramide, Dyhydrocodeine, Meperdine Fentanyl, Pentazocaine, Hydromorphone, Omnopone, Alphaprodine, Demeral, Oxycodone, Etorphine, Lofentanyl, alfentanyl, Alphamethyl Fentanyl, 3-Methyl Fentanyl, Asscetrophine, Acetylmethadol, Alphacetyl methadol, Betaproline etc. 6. Coca leaf, Cocaine or Coca derivatives. 7. Any article containing more than 0.1 percent of cocaine or any alkaloid of cocaine. 8. Tetrahydrocannabinol in any form, cannabis resin or Charas or Hashish etc. 9. Ephedrine, Ergometrine, Ergotamine, Lysergic acid, 1-phenyl-2-propanone, Pseudoephedrone, N-Acetyl anthranilic acid, Isosafrole, 3,4-methyl enedioxyphenyl-2-Propanone, Piperonal, safrole, Acetic Anhydride, Acetone, Anthranilic Acid, Ethyl Ether, Phenylacetic Acid, Piperidine, Hydrochloric Acid, Methyl-Ethyl-Ketone, Potassium Permanganate, Sulphuric Acid, Toluene. 10. Mescaline.
B	<ol style="list-style-type: none"> 1. Hemo plant, Herbal Cannabis, Bhang, Bhang Plant or any article manufactured in combination with Herbal cannabis or Bhang. 2. Any other plants (except tobacco) which may be used as a source of narcotics. 3. Alcohol, all kinds of wine and liquor, rectified spirit, any medicine or liquid manufactured with rectified spirit, beer or any liquid containing more than 0.5% alcohol. 4. LSD or any article containing LSD. 5. Barbiturates or any article of the same class. 6. Amphetamine, Methyl amphetamine or any article containing amphetamine. 7. Phencyclidine, Psilocybin, Nicocodine or any article containing these things. 8. Methaqualone or any article containing Methaqualone.
C	<ol style="list-style-type: none"> 1. Tari, Pachwai etc. 2. Denatured spirit or Methylated spirit 3. Chlordiazepoxide, Diazepam, Oxazepam, Lorazepam, Flurazepam, Clorazepate, Nitrazepam, Triazolam, Temazepam etc. 4. Any sedative, tranquilizer or hypnotic medicine not mentioned in category "B". 5. Stimulants or Depressant type of medicine not mentioned in category "A" and "B".

23.21.4 Narcotics Duty / Liquor Duty [Section 18 & Schedule 2]:

According to Section 18 of the NC Act, 1990,

- (1) Narcotics duty shall be levied upon all kinds of produced alcohol at the rate as mentioned in the Second Schedule.
- (2) The duty so levied shall be realized by the Director General or any officer or employee subordinate to him in the manner prescribed by the rules.

Narcotics duty rate (Second Schedule)

Sl.	Articles upon which narcotics duty leviable	Rate of narcotics duty
1	Local Liquor:	
	(a) For all areas of the country except tea garden areas	Tk. 300 per LPG
	(b) For tea garden areas	Tk. 150 per LPG
2	Methyl alcohol, Ithyl alcohol and absolute alcohol	Tk. 225 per LPG
3	Rectified spirit:	
	(a) A maximum of 8 “London Proof Gallon” per annum under the license of a Homeopathic Physician registered under Bangladesh Homeopathic Practitioners Ordinance, 1983 (XLI of 1983)	Tk. 50 per LPG
	(b) Others	Tk. 225 per LPG
4	Foreign liquor manufactured in Bangladesh	Tk. 750 per LPG
5	Denatured spirit	Tk. 50 per Bulk Gallon

23.21.5 Prohibition of production of narcotics except alcohol [Section – 9]:

- (1) Except alcohol there shall not be any cultivation, production, processing, carrying, transportation, import, export, supply, purchase, sale, possession, preservation, warehousing, exhibition or use of any narcotics. Moreover any kind of initiative or investment to establish or operate any organization for such purpose is also prohibited.
- (2) There shall not be any cultivation, production, processing, carrying, transportation, import, export, supply, purchase, sale, possession, preservation, warehousing, exhibition or use of anything or plant which is used in the production of narcotics.
- (3) Notwithstanding anything contained in the above subsections, any narcotics or product or plant covered by the aforesaid subsections, which is used in the manufacture of any medicine, medical treatment or scientific research may under this act:
 - (a) Be cultivated, manufactured, processed, imported, exported, supplied, purchased, sold, carried, preserved, stored and exhibited under license.
 - (b) Be used under permit
 - (c) Be carried or transported with pass.
- (4) Information regarding the danger of any misuse of the narcotics manufactured, processed and imported under subsection 3 must be clearly printed in the label or packet of those.
- (5) The section will not be applicable for permitted amount of narcotics kept as medicine in the first aid box of any passenger vehicle under the control and supervision of the Physician.

23.21.6 Penalty for breach of provisions of Section 9 [Section – 19]:

1. If any person violates any provision of Section 9 relating to the narcotics specified in column 2 of the following table, other than subsection 1 and 2 of Section 9 relating to cultivation, production, process and use, he shall be punished with the penalty mentioned in column (3) of the table against the said narcotics:

Sl.	Name of Drugs	Penalty
1	Heroin, Cocaine & Coca derivatives	(a) 2 to 10 years imprisonment (if quantity is less than 25 gram)

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		(b) Death sentence or life time imprisonment (if quantity is more than 25 gram)
2	Pethidine, Morphine and Tetrahydrocannabinol	(a) 2 to 10 years imprisonment (if quantity is less than 10 gram) (b) Death sentence or life time imprisonment (if quantity is more than 10 gram)
3	Opium, Cannabis, Resin or Opium derivatives (except Heroine & Morphine)	(a) 2 to 10 years imprisonment (if quantity is less than 2 kg) (b) Death sentence or life time imprisonment (if quantity is more than 2 kg)
4	Methadon	(a) 2 to 10 years imprisonment (if quantity is less than 50 gram) (b) Death sentence or life time imprisonment (if quantity is more than 50 gram)
5	Other "A" category narcotics	2 to 15 years imprisonment
6	Gunja or any kind of herbal cannabis	(a) 6-months to 3 years imprisonment (if quantity is less than 5 kg) (b) 3 to 15 years imprisonment (if quantity is more than 5 kg)
7	Cannabis plant of any species	(a) 6-months to 3 years imprisonment (if no. of plants is less than 25) (b) 3 to 15 years imprisonment (if no. of plants is more than 25)
8	Phencyclidine, Methaqualone, LSD, Barbiturates, Amphetamine or drugs manufactured with any one of them	(a) 6-months to 3 years imprisonment (if quantity is less than 5 gram) (b) 5 to 15 years imprisonment (if quantity is more than 5 gram)
9	Other B Class narcotics	6-months to 5 years imprisonment
10	C Class narcotics	Maximum 1 year imprisonment or Fine of Tk. 10,000 or both

Note: Fine will also be imposed for above offences except serial 10.

2. For cultivation, production or process of A class narcotics - 2 to 15 years imprisonment with fine.
 3. For cultivation, production or process of B & C class narcotics - 2 to 10 years imprisonment with fine.
 4. For breaching any provision of Section 9(1) & 9(2) regarding the use of narcotics:
A class narcotics - 2 to 7 years imprisonment with fine.
B class narcotics - 1 to 5 years imprisonment with fine.
C class narcotics - 6 months to 2 years imprisonment with fine.
- In addition to the above penalty, the court may give order to send the person to rehab centre.
5. If any convicted person after completion of his punishment term again commits any offence under this section and if the penalty for the said offence is not death sentence or imprisonment of life, he shall be punished with double the amount of maximum punishment prescribed for the said offence.

23.21.7 Other penalty measures under the NC Act, 1990:

Section	Nature of offences	Penalty
20	For keeping machineries etc. used for producing narcotics	2 to 15 years imprisonment with fine
21	For allowing to use homestead or transport to commit offence	Maximum 5 years imprisonment with fine
22	For working without license/pass: (a) Does anything mentioned in Sec- 9(3)(a) and Sec – 10(1) (b) Does anything mentioned in Sec- 9(3)(b) or (c) and Sec – 10(2)	For (a): 2 to 10 years imprisonment with fine For (b): Upto 2 years imprisonment or Tk. 5,000 fine or both
23	For breaching of conditions of license/ permit/pass: (a) For breaching of conditions of license (b) For breaching of conditions of permit (c) For giving prescription in violation of terms set by the DG under Sec - 13	For (a): Upto 5 years imprisonment or Tk. 10,000 fine or both For (b): Upto 2 years imprisonment or Tk. 5,000 fine or both For (c): Upto 1 year imprisonment or fine or both
24	For illegal harassment by officer	Upto 1 year jail or fine or both
25	For instigation to commit offence etc.	3 to 15 years imprisonment with fine
26	For any offence where any punishment has not been prescribed	Upto 1 year imprisonment or Tk. 5,000 fine or both

KEY POINTS

1. Customs Duty synonymous to tariff and involves a tax on commodities entering and leaving the country.
2. The Customs Act, 1969 was made effective in Bangladesh by President's Order no. 48 of 1972 with effect from 01 January 1970.
3. NBR as per Chapter II (Section 3 to 8) of the Customs Act, 1969 deals with the appointments of the officers of customs and their powers.
4. Some of the goods are prohibited to bring into Bangladesh u/s 15 of the Customs Act, 1969.
5. Several types of duties are imposed on goods at the time of import or export as per various provisions (Basically Chapter V) of the CA, 1969.
6. Customs-duties shall be levied at such rates as are prescribed in the First Schedule.
7. The valuation of goods for imposition of duty is done on the basis of the various provisions of Section 25 of the Customs Act, 1969 and The Customs valuation (Fixing the price of imported goods) Rules, 2000.
8. An appropriate officer of Customs Authority may search any person if he has reason to believe that the person is carrying goods liable to confiscation.
9. Any authorized Customs officer or any person duly empowered for the prevention of smuggling who has reason to believe that any person has committed an offence under this Act may arrest such person.
10. Specified amount of travel tax is collected from a passenger who travels from Bangladesh to any country by air, land or sea.

Multiple choice questions:

1. For imposing customs duty, the relevant tax is the Customs Act-----.
 (a) 1984
 (b) 1991
 (c) 1969
 (d) 2000
2. Which one is a prohibited good?
 (a) counterfeit coin
 (b) Arms
 (c) Medicine
 (d) Energy saving light
3. Which section of the Customs Act, 1969 is relevant to valuation of goods?
 (a) 16
 (b) 25
 (c) 86
 (d) 156
4. Amendment of assessment can be done within -
 (a) 1 year
 (b) 2 year
 (c) 3 year
 (d) 4 year
5. Assessment of duty is mentioned in which provision of the Customs Act, 1969?
 (a) 80
 (b) 156
 (c) 16
 (d) 96
6. Which tax is not imposed as per the provisions of the Customs Act, 1969?
 (a) Value Added Tax
 (b) Customs Duty
 (c) Countervailing duty
 (d) Regulatory Duty
7. Which duty is not imposed as per Customs Act--
 (a) Regulatory duty
 (b) Anti-dumping duty
 (c) Safeguard duty
 (d) Supplementary duty
8. The provisions of offences and prosecution under the Customs Act, 1969 are mentioned in which section?
 (a) 120
 (b) 156
 (c) 180
 (d) 198
9. In case of travel to any country by sea, the travel tax amount is:
 (a) Tk. 2,500
 (b) Tk. 1,800
 (c) Tk. 800
 (d) Tk. 500

10. Who is not exempted from paying travel tax?

- (a) Child
- (b) Blind person
- (c) UN officials
- (d) Tourists

Identify the following statements as True (T) or False (F):

1. Customs duty is a direct tax.
2. Customs duty is payable in case of export or import of goods and services.
3. Customs duty contributes the highest in the tax revenue.
4. Anti-dumping duty is imposed as per the Customs Act, 1969.
5. Travel tax is imposed as per the Customs Act, 1969.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 23 – 1: Define Customs duty? Discuss the customs procedure
- Question 23 – 2: Discuss the characteristics of VAT in Bangladesh?
- Question 23 – 3: Discuss the scope of Bangladesh customs law.
- Question 23 – 4: Discuss the relevant provisions of the customs authorities and their powers.
- Question 23 – 5: What are the prohibited goods as per the Customs Act, 1969?
- Question 23 – 6: Explain the various types of duties as per the Customs Act, 1969.
- Question 23 – 7: Discuss the provisions relevant to the exemptions from customs duty.
- Question 23 – 8: Discuss the procedures of fixing the price of the imported goods.
- Question 23 – 9: What are the dates for determination of the value of imported goods and rate of import duty
- Question 23 – 10: Discuss the provisions of the assessment of duties as per the Customs Act, 1969.
- Question 23 – 11: Discuss the provisions relevant to the prevention of Smuggling, Powers of Search, Seizure etc.?
- Question 23 – 12: What are the provisions applicable for alternative dispute resolution?
- Question 23 – 13: What are the travel tax rates applicable in Bangladesh?
- Question 23 – 14: Who are exempted from paying travel tax in Bangladesh?.
- Question 23 – 15: What are the excise duty rates applicable in Bangladesh?
- Question 23 – 16: What are the taxable and duty free baggage items?
- Question 23 – 17: What is narcotics? Enumerate the narcotics duty rates.

Answers:

Multiple choice questions		True/False
1. c	6. a	1. F
2. a	7. d	2. T
3. b	8. b	3. F
4. c	9. c	4. T
5. a	10. d	5. F

BANGLADESH INCOME TAX

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